

MONTANA LEGISLATIVE HISTORY

Chapter 248 19 81

Bill H _____ S 429

Original bill & history ☒ C

H. Committee on Human Services

S. Committee on Public Health

Hearing Date(s) Mar 06 ☒ C

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Mar 11 ☒ C

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Date Out Mar 11 ☒ C

Feb 18 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 *Senate* BILL NO. *427*
 2 INTRODUCED BY *STEVE BROWN*
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE
 6 BOARD OF NURSING UNDER EXISTING STATUTORY AUTHORITY AND
 7 RULES AND TO GENERALLY REVISE THE LAWS RELATING TO LICENSURE
 8 OF NURSES; MODIFYING BOARD MAKEUP; PROVIDING FOR STAGGERED
 9 4-YEAR TERMS FOR BOARD MEMBERS; REVISING DEFINITIONS OF
 10 NURSING; AUTHORIZING TEMPORARY NURSING PERMITS; PROVIDING
 11 FOR A LATE RENEWAL FEE; AMENDING SECTIONS 2-8-103,
 12 2-15-1610, 37-8-102, 37-8-103, 37-8-201, 37-8-202, 37-8-301,
 13 37-8-302, 37-8-406, 37-8-407, 37-8-409, 37-8-415 THROUGH
 14 37-8-417, 37-8-431, 37-8-441, AND 37-8-442, MCA; AND
 15 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16
 17 WHEREAS, The sunset law, sections 2-8-103 and 2-8-112,
 18 MCA, terminates the Board of Nursing and requires a
 19 performance evaluation of the Board by the Legislative Audit
 20 Committee; and

21 WHEREAS, as a result of the performance evaluation, the
 22 Legislative Audit Committee recommends that the Board of
 23 Nursing be reestablished under existing statutory authority.

24
 25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 Section 1. Reestablishment. The board of nursing is
 2 reestablished for 6 years pursuant to 2-8-122 with its
 3 existing statutory authority and rules.

4 Section 2. Section 2-8-103, MCA, is amended to read:
 5 "2-8-103. Agencies to terminate. (1) The following
 6 agencies shall terminate on July 1, 1979:

7 (a) board of abstracters, department of professional
 8 and occupational licensing, created by 2-15-1643;

9 (b) board of real estate, department of professional
 10 and occupational licensing, created by 2-15-1642;

11 (c) state board of warm air heating, ventilation, and
 12 air conditioning, department of professional and
 13 occupational licensing, created by 2-15-1656;

14 (d) board of institutions, department of institutions,
 15 created by 2-15-2303.

16 (2) The following agencies shall terminate on July 1,
 17 1981:

18 (a) commission for human rights, department of labor
 19 and industry, created by 2-15-1706;

20 (b) board of athletics, department of professional and
 21 occupational licensing, created by 2-15-1661;

22 (c) board of barbers, department of professional and
 23 occupational licensing, created by 2-15-1625;

24 (d) board of chiropractors, department of professional
 25 and occupational licensing, created by 2-15-1613;

1 (e) board of cosmetologists, department of
2 professional and occupational licensing, created by
3 2-15-1626;

4 (f) board of dentists, department of professional and
5 occupational licensing, created by 2-15-1606;

6 (g) board of hearing aid dispensers, department of
7 professional and occupational licensing, created by
8 2-15-1616;

9 (h) board of massage therapists, department of
10 professional and occupational licensing, created by
11 2-15-1627;

12 (i) Montana state board of medical examiners,
13 department of professional and occupational licensing,
14 created by 2-15-1605;

15 (j) board of morticians, department of professional
16 and occupational licensing, created by 2-15-1619;

17 ~~{k}--board-of-nursing--department-of--professional--and~~
18 ~~occupational--licensing--created-by-2-15-1618;~~

19 ~~{l}{k}~~ board of nursing home administrators,
20 department of professional and occupational licensing,
21 created by 2-15-1611;

22 ~~{m}{l}~~ board of optometrists, department of
23 professional and occupational licensing, created by
24 2-15-1612;

25 ~~{n}{l}~~ board of osteopathic physicians, department of

1 professional and occupational licensing, created by
2 2-15-1607;

3 ~~{o}{l}~~ board of pharmacists, department of
4 professional and occupational licensing, created by
5 2-15-1609;

6 ~~{p}{l}~~ board of podiatry examiners, department of
7 professional and occupational licensing, created by
8 2-15-1608;

9 ~~{q}{l}~~ board of psychologists, department of
10 professional and occupational licensing, created by
11 2-15-1617;

12 ~~{r}{l}~~ board of radiologic technologists, department
13 of professional and occupational licensing, created by
14 2-15-1614;

15 ~~{s}{l}~~ board of speech pathologists and audiologists,
16 department of professional and occupational licensing,
17 created by 2-15-1615;

18 ~~{t}{l}~~ board of veterinarians, department of
19 professional and occupational licensing, created by
20 2-15-1618;

21 ~~{u}{l}~~ board of veterans' affairs, department of
22 social and rehabilitation services, created by 2-15-2202;

23 ~~{v}{l}~~ board of sanitarians, department of
24 professional and occupational licensing, created by
25 2-15-1631.

1 (3) The following units of state government shall
2 terminate on July 1, 1983:

3 (a) board of aeronautics, department of community
4 affairs, created by 2-15-1103;

5 (b) state board of hail insurance, department of
6 agriculture, created by 2-15-3003;

7 (c) board of horse racing, department of professional
8 and occupational licensing, created by 2-15-1662;

9 (d) board of livestock, department of livestock,
10 created by 2-15-3102;

11 (e) board of milk control, department of business
12 regulation, created by 2-15-1802;

13 (f) board of oil and gas conservation, department of
14 natural resources and conservation, created by 2-15-3303;

15 (g) Montana outfitters council, department of fish,
16 wildlife, and parks, created by 2-15-3403;

17 (h) public service commission, department of public
18 service regulation, created by 59-1-102;

19 (i) board of water and wastewater operators,
20 department of health and environmental sciences, created by
21 2-15-2105;

22 (j) board of water well contractors, department of
23 professional and occupational licensing, created by
24 2-15-1632.

25 (4) The following agencies terminate on July 1, 1985:

1 (a) the board of public accountants, created by
2 2-15-1641;

3 (b) the board of architects, created by 2-15-1651;

4 (c) state banking board, department of business
5 regulation, created by 2-15-1303;

6 (d) the state electrical board, created by 2-15-1654;

7 (e) the board of professional engineers and land
8 surveyors, created by 2-15-1653;

9 (f) office of commissioner of insurance and the
10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

12 (g) office of the securities commissioner, state
13 auditor's office, created by 2-15-1901;

14 (h) the board of landscape architects, created by
15 2-15-1652;

16 (i) the board of county printing, created by
17 2-15-1102;

18 (j) the board of plumbers, created by 2-15-1655;

19 (k) board of physical therapy examiners, created by
20 2-15-1628.

21 ~~(5) The following agency terminates on July 1, 1987:~~
22 ~~the board of nursing, department of professional and~~
23 ~~occupational licensing, created by 2-15-1610."~~

24 Section 3. Section 2-15-1610, MCA, is amended to read:
25 "2-15-1610. Board of nursing. (1) There is a board of

1 nursing.

2 (2) The board consists of ~~eight nine~~ members appointed
3 by the governor. The members are:

4 (a) ~~five four~~ registered professional nurses; who
5 ~~constitute the board--professional--nursing--administration.~~
6 ~~At at least three members one such member~~ shall have had at
7 least 3 5 years in administrative, teaching, or supervisory
8 experience in ~~one or more~~ schools of nursing ~~and at least~~
9 ~~one such member must be currently engaged in the~~
10 ~~administration, supervision, or provision of direct client~~
11 ~~care.~~ Each member shall:

12 (i) be a graduate of an approved school of nursing;

13 (ii) be a licensed ~~registered professional~~ nurse in
14 this state;

15 (iii) have had at least 5 years' experience in nursing
16 following graduation; and

17 (iv) ~~have been actively be currently~~ engaged in the
18 ~~practice of professional nursing and have practiced~~ for at
19 least 3 years ~~immediately before appointment.~~

20 (b) three practical nurses ~~who--constitute--the~~
21 ~~board--practical--nursing--administration.~~ Each member shall:

22 (i) be a graduate of a school of practical nursing;

23 (ii) be a licensed practical nurse in this state;

24 (iii) have had at least 3 5 years' experience as a
25 practical nurse; and

1 (iv) ~~have been actively be currently~~ engaged in the
2 practice of practical nursing ~~and have practiced~~ for at
3 least 2 3 years ~~immediately before appointment.~~

4 (c) ~~two public members who are not medical~~
5 ~~practitioners or involved in the practice or employment of~~
6 ~~nursing.~~

7 (3) All members shall have been residents of this
8 state for at least 1 year before appointment and be citizens
9 of the United States.

10 (4) ~~All members shall serve for a term of 5 years~~
11 ~~Members shall serve staggered 4-year terms,~~ and a member may
12 not be appointed for more than two consecutive terms. The
13 governor may remove a member from the board for neglect of a
14 duty required by law or for incompetency or unprofessional
15 or dishonorable conduct.

16 (5) The board is allocated to the department for
17 administrative purposes only as prescribed in 2-15-121."

18 Section 4. Section 37-8-102, MCA, is amended to read:
19 "37-8-102. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:

21 (1) "Board" means the board of nursing provided for in
22 2-15-1610 ~~with dual functions in the field of professional~~
23 ~~nursing and practical nursing. In matters relating to~~
24 ~~professional nursing, the board consists of five members; in~~
25 ~~matters relating to practical nursing, the board consists of~~

~~eight members. The board of five members may for~~
~~convenience be referred to as the "board" followed by the~~
~~words "professional nursing administration" and the board~~
~~of eight members may for convenience be referred to as the~~
~~"board" followed by the words "practical nursing~~
~~administration".~~

(2) "Department" means the department of professional
 and occupational licensing provided for in Title 2, chapter
 15, part 16.

(3) "Practice of nursing" embraces two classes of
 nursing service and activity, as follows:

(a) "Practice of professional nursing" means the
 performance for compensation of ~~an act in the observation~~
~~care and counsel of the ill, injured, or infirm or in the~~
~~maintenance of health or prevention of illness of others or~~
~~in the supervision and teaching of other personnel or the~~
~~administration of medications and treatments prescribed by a~~
~~person licensed in this state to prescribe medications and~~
~~treatments requiring substantial specialized judgment and~~
~~skill and based on knowledge and application of the~~
~~principles of biological, physical, and social sciences~~
services requiring substantial specialized knowledge of the
biological, physical, behavioral, psychological, and
sociological sciences and of nursing theory as a basis for
the nursing process. The nursing process is the assessment,

nursing analysis, planning, nursing intervention, and
evaluation in the promotion and maintenance of health; the
prevention, casefinding, and management of illness, injury,
or infirmity; and the restoration of optimum function. The
term also includes administration, teaching, counseling,
supervision, delegation, and evaluation of nursing practice
and the administration of medications and treatments
prescribed by physicians, dentists, osteopaths, or
podiatrists authorized by state law to prescribe medications
and treatments. Each registered nurse is directly
accountable and responsible to the consumer for the quality
of nursing care rendered. As used in this subsection (3)(a):

(i) "nursing analysis" is the identification of those
 client problems for which nursing care is indicated and may
 include referral to medical or community resources;

(ii) "nursing intervention" is the implementation of a
 plan of nursing care necessary to accomplish defined goals.

(b) "Practice of practical nursing" means the
 performance for compensation ~~in the care of the ill~~
~~injured, or infirm of acts selected by and performed under~~
~~the direction of a registered professional nurse or a person~~
~~licensed in this state to prescribe medications and~~
~~treatments and not requiring the substantial specialized~~
~~skill, judgment, and knowledge required in professional~~
~~nursing of services requiring basic knowledge of the~~

1 biological, physical, behavioral, psychological, and
 2 sociological sciences and of nursing procedures. Practical
 3 nursing practice utilizes standardized procedures leading to
 4 predictable outcomes in the observation and care of the ill,
 5 injured, and infirm; in the maintenance of health; in action
 6 to safeguard life and health; and in the administration of
 7 medications and treatments prescribed by a physician,
 8 dentist, osteopath, or podiatrist authorized by state law to
 9 prescribe medications and treatments. These services are
 10 performed under the supervision of a registered nurse or a
 11 physician, dentist, osteopath, or podiatrist authorized by
 12 state law to prescribe medications and treatments.

13 (4) "Nursing education program" means any
 14 board-approved school that prepares graduates for initial
 15 licensure under this chapter. Nursing education programs
 16 for:

17 (a) professional nursing may be a department, school,
 18 division, or other administrative unit in a senior or junior
 19 college or university;

20 (b) practical nursing may be a department, school,
 21 division, or other administrative unit in a
 22 vocational-technical center or junior college."

23 Section 5. Section 37-8-103, MCA, is amended to read:

24 "37-8-103. Exemptions -- limitations on authority
 25 conferred. (1) No provisions of this law may be construed as

1 prohibiting:

2 (a) gratuitous nursing by friends or members of the
 3 family;

4 (b) incidental care of the sick by domestic servants
 5 or persons primarily employed as housekeepers;

6 (c) nursing assistance in the case of an emergency;

7 (d) the practice of nursing by students enrolled in
 8 ~~approved schools of nursing or approved courses or by the~~
 9 ~~graduates of such schools or courses pending the results of~~
 10 ~~the first licensing examination scheduled by the board~~
 11 ~~following their graduation nursing education programs;~~

12 (e) the practice of nursing in this state by any
 13 legally qualified nurse of another state whose engagement
 14 requires the nurse to accompany and care for a patient
 15 temporarily residing in this state during the period of one
 16 such engagement not to exceed 6 months in length, provided
 17 that person does not represent or hold herself or himself
 18 out to be a nurse licensed to practice in this state;

19 (f) the practice of any legally qualified nurse of
 20 another state who is employed by the United States
 21 government or any bureau, division, or agency thereof while
 22 in the discharge of that nurse's official duties;

23 (g) nursing or care of the sick, with or without
 24 compensation, when done in connection with the practice of
 25 the religious tenets of any well-established religion or

denomination by adherents thereof;

(h) nursing or care of a minor who is in the care of a licensed foster parent, to the same extent such care may be provided by a parent or guardian.

(2) This chapter may not be construed as conferring any authority to practice medicine, surgery, or any combination thereof; to confer any authority to practice any of the healing arts prescribed by law to be practiced in the state of Montana; or to permit any person to undertake the treatment of disease by any of the methods employed in those arts unless the licensee has been qualified under the applicable law or laws licensing the practice of those professions or healing arts in the state of Montana."

Section 6. Section 37-8-201, MCA, is amended to read:

"37-8-201. Seal -- board records public -- legal counsel. (1) The board shall have a seal which shall be used to authenticate its acts under each administration. The seal shall have inscribed the words "Board of Nursing--Official Seal" and a device or legend designated by the board.

(2) The records and files of the board kept by the department are at all times open to public inspection.

(3) The attorney general is the attorney and legal counsel for the board, but the department may, with the approval of the attorney general, appoint additional legal counsel to assist the board and department in the

administration and enforcement of this chapter."

Section 7. Section 37-8-202, MCA, is amended to read:

"37-8-202. Organization -- meetings -- powers and duties ~~-----dual-----administration.~~ (1) The board~~-----practical~~ nursing~~-----administration~~ shall meet annually ~~in-the-month-of~~ duty and shall elect from among the ~~eight~~ ~~nine~~ members a president and a secretary~~-----each-of-whom-is-a-professional~~ nurse. The board~~-----practical-----nursing-----administration~~ shall hold other meetings when necessary to transact its business. ~~The-board-----professional-nursing-administration-shall-meet~~ ~~annually-----in-duty-----and-----shall-----hold-----other-----meetings-----when~~ ~~necessary-to-transact-its-business.~~ A majority of the board ~~as-separately-constituted-for-each-administration-including~~ ~~in-the-majority-at-least-one-officer-of-the-board;~~ constitutes a quorum at any meeting~~-----however-----when-----sitting~~ ~~as-the-practical-nursing-administration-a-quorum-consists~~ ~~of-a-minimum-of-two-practical-nurse-members-and-three~~ ~~professional-nurse-members-including-one-board-officer.~~ The department shall keep ~~separate-----and~~ complete minutes and records of the ~~respective-administration~~ meetings and rules and orders promulgated by ~~each-administration-of~~ the board~~-----and-----administration-shall-exercise-its-functions~~ ~~power-----and-----duties-----exclusive-of-the-other-----except-for-the~~ ~~identity-and-membership-provided-in-this-chapter.~~

(2) The board under each administration may make rules

1 necessary to ~~enable the respective administrations to~~
 2 administer this chapter. The board ~~under each administration~~
 3 shall prescribe ~~curricula and~~ standards for schools and
 4 ~~courses~~ preparing persons for registration and licensure
 5 under this chapter. It shall provide for surveys of schools
 6 ~~and courses~~ at times it considers necessary. It shall
 7 approve ~~schools and courses~~ programs that meet the
 8 requirements of this chapter and of the board. The
 9 department shall, subject to 37-1-101, examine and issue to
 10 and renew licenses of qualified applicants. The board shall
 11 conduct hearings on charges calling for discipline of a
 12 licensee, revocation of a license, or removal of schools of
 13 nursing from the approved list. It shall cause the
 14 prosecution of persons violating this chapter and may incur
 15 necessary expenses for this.

16 (3) The board ~~under each administration~~ may adopt and
 17 the department shall publish forms for use by applicants and
 18 others, including license, certificate, and identity forms
 19 and other appropriate forms and publications convenient for
 20 the proper administration of this chapter, and the board may
 21 fix reasonable fees for incidental services, all within the
 22 subject matter delegated ~~to each administration~~ by this
 23 chapter. ~~Forms shall make clear reference to the~~
 24 ~~administration for which the form is intended.~~

25 (4) ~~Unless the context requires otherwise, the powers~~

1 ~~and duties enumerated in this chapter shall be exercised and~~
 2 ~~performed by the board professional nursing administration~~
 3 ~~in all matters relating to professional nurses or~~
 4 ~~professional nursing education and shall be exercised and~~
 5 ~~performed by the board inclusive of the practical nursing~~
 6 ~~administration in all matters relating to practical nurses~~
 7 ~~and practical nursing education. The officers of the board~~
 8 ~~shall also be the officers of the board inclusive of the~~
 9 ~~practical nursing administration.~~

10 (4) The board may participate in and pay fees to a
 11 national organization of state boards of nursing to assure
 12 interstate endorsement of licenses."

13 Section 8. Section 37-8-301, MCA, is amended to read:
 14 "37-8-301. ~~Schools of nursing~~ Nursing education
 15 programs -- application for approval. An institution
 16 desiring to conduct a ~~school of professional or practical~~
 17 nursing education program in the state shall apply to the
 18 department and submit evidence that:

19 (1) ~~it is prepared to carry out the prescribed basic~~
 20 ~~professional nursing curriculum or the prescribed curriculum~~
 21 ~~for practical nursing, as the case may be; and~~

22 (2) ~~it is prepared to meet other standards established~~
 23 ~~by this law and by the board; it is prepared to carry out an~~
 24 educational program that complies with the provisions of
 25 this chapter and the rules adopted by the board pursuant to

~~this section. The board shall adopt rules relating to the conduct of nursing education programs that are directed toward insuring qualifications to practice as a professional nurse or a practical nurse in those areas of service specified in 37-8-102.~~

Section 9. Section 37-8-302, MCA, is amended to read:

~~"37-8-302. Schools---of---nursing nursing education programs -- survey and approval. (1) A survey-of-the-school and--institution-or-institutions-with-which-the-school-is-to be-affiliated-shall-be-made-by-the-department--which-shall submit-a-detailed-written-report-of-the-survey-to-the-board. It is the duty of the department through its authorized employees or representatives to periodically survey all nursing education programs. Written reports of such surveys shall be submitted to the board. If, in the opinion of the board, the requirements for an approved school-of-nursing (professional-or-practical) nursing education program are met, it shall--approve-the-school-as-an-approved-school-of nursing the program shall be granted initial or continuing approval.~~

(2) When If the board determines that an any approved school-of nursing education program is not maintaining the standards required by law and the rules established by the board, notice in-writing shall be given to the nursing education program specifying the defect-shall-be-immediately

~~given--to--the-school areas of noncompliance. A school-which program that fails to correct these conditions--to--the satisfaction--of--the--board areas of noncompliance within a reasonable the time designated by the board shall be removed from the list of approved schools--of nursing education programs."~~

Section 10. Section 37-8-406, MCA, is amended to read:

~~"37-8-406. Professional License --- professional nursing -- examination -- fee. (1) An applicant for a license to practice as a registered professional nursing nurse is required to pass a written examination in subjects the board--acting--under--the--professional--nursing administration determines necessary. A written examination may be supplemented by an oral or practical examination. On successfully-passing-the-examination--the--department--shall issue--to--the--applicant-a-license-to-practice-nursing-as-a registered-professional-nurse--the-applicant-shall-pay-a-fee of-\$35-at-the-time-the-application-is-submitted--which-shall be-returned-to-the-applicant-if-the-application-is-withdrawn not-later-than-5-days-prior-to-the-date-of-examination-or-if the-examination-is-not-taken--subject-to-deduction-by-the department-of-\$1-per-subject-of-the-examination-which-shall be-retained-by-the-department. The board may use any national standardized examination for professional nurse licensure identified in its rules. The passing score on such~~

examination shall be established by the board in its rules. On successfully passing the examination, an applicant shall be issued a license to practice professional nursing.

(2) The board shall establish in its rules the requirements for rewriting the examination for those persons failing the examination on the first writing and subsequent writings."

Section 11. Section 37-8-407, MCA, is amended to read:

"37-8-407. Reciprocity Endorsement -- professional nursing. (1) The board--professional-nursing-administration may issue without examination a license to practice nursing as a registered professional nurse to an applicant who has been licensed or registered as a professional nurse under the laws of another state or territory if in the opinion of the board the applicant meets the qualifications required of registered nurses in this state at the time the applicant graduated from a school of nursing. The applicant shall pay a fee of \$35 at the time the application is submitted, which shall be returned to the applicant if the application is withdrawn not later than 5 days prior to final submission of the application to the board, subject to deduction of \$5 to be retained by the department.

(2)--An--applicant--may--pending--licensure--as--a--professional--nurse--under--subsection--(1)--of--this--section--practice--professional--nursing--as--an--employee--of--a--health

care--agency--for--a--period--not--longer--than--3--months--from--the date--the--department--acknowledges--receiving--from--the--nurse--a completed--statement--on--a--form--provided--by--the--department of--intention--to--practice--The--statement--shall--consist--of--an affidavit--by--the--nurse--and--an--affidavit--by--the--employer where--the--nurse--intends--to--practice--professional--nursing. The--affidavit--of--the--nurse--and--the--affidavit--of--the--employer shall--contain--the--information--deemed--by--the--board--necessary for--the--statement.

(2)--Subsection--(2)--does--not--permit--the--nurse--to practice--for--more--than--a--3-month-period--or--in--any--event after--being--notified--by--the--board--through--the--department that--the--application--for--a--license--has--been--denied--or--in--all cases--after--being--notified--by--the--board--through--the department--to--cease--and--desist--this--practice--Notice--shall be--given--by--registered--or--certified--mail--to--the--address--of the--applicant--as--it--appears--in--the--statement--of--the applicants."

Section 12. Section 37-8-409, MCA, is amended to read:

"37-8-409. Midwifery -- When professional nurse may practice. (1) A person licensed under 37-8-406 or 37-8-407 who holds a certificate in nurse-midwifery from the American college of nurse-midwives may practice midwifery upon approval by the board--professional--nursing--administration of an amendment to her license granting a certificate of

nurse-midwifery. The board shall grant a certificate of nurse-midwifery to a person who submits written verification of certification by the American college of nurse-midwives and who meets such other qualification requirements as the board may prescribe.

(2) The board--professional-nursing-administration may give temporary approval to practice nurse-midwifery for up to 4 months to a person who has taken the American college of nurse-midwives national certification examination, pending receipt of official notification of the results of the examination."

Section 13. Section 37-8-416, MCA, is amended to read:

"37-8-416. Licensed practical nursing -- qualifications of applicants. An applicant for a license to practice as a licensed practical nurse shall submit to the department board written evidence, verified by oath, that the applicant:

(1) has successfully completed at least an approved 4-year high school course of study or the equivalent as determined by the office of the superintendent of public instruction;

(2) has--successfully--completed--the--prescribed curriculum--in--an--approved--school--of--practical--nursing--and holds--a--diploma--or--certificate--therefrom is a graduate of an approved practical nursing education program that is

authorized to prepare persons for licensure as practical nurses; and

(3) meets other qualification requirements the board ~~acting--under--the--practical--nursing--administration~~ prescribes in its rules."

Section 14. Section 37-8-416, MCA, is amended to read:

"37-8-416. Licensed practical nursing -- examination.

An applicant for a license to practice as a practical nurse is required to pass a written examination in subjects as the board ~~acting-under-the-practical-nursing-administration~~ determines. A written examination may be supplemented by an oral or practical examination. The board may use any nationally standardized examination for practical nurse licensure identified by the board in its rules. The passing score shall be established by the board in its rules. On successfully passing the examination, the department board shall issue to the applicant a license to practice as a licensed practical nurse."

Section 15. Section 37-8-417, MCA, is amended to read:

"37-8-417. Reciprocity Endorsement -- licensed practical nursing. (1) The board--practical-nursing-administration may issue a license to practice as a licensed practical nurse, without examination, to an applicant who has been licensed or registered as a licensed practical nurse or person entitled to perform like services under a

different title under the laws of another state or territory if, in the opinion of the practical-nursing-administration board, the applicant meets the requirements for practical nurses in this state.

~~(2)--An applicant may, pending licensure as a practical nurse--under--subsection--(1)--of--this--section--practice practical-nursing-as-an-employee-of-a-health-care-agency-for a-period-of-not-longer-than--3--months--from--the--date--the department-acknowledges-receiving-from-the-practical-nurse-a completed--statement--on-a-form-provided-by-the-department of-intention-to-practice--The statement shall consist of--an affidavit--by--the--practical--nurse--and--an affidavit--by--the employer--where--the--practical--nurse--intends--to--practice practical--nursing--The--affidavit--of--the--nurse--and--the affidavit-of-the--employer--shall--contain--the--information considered--by--the--board--necessary--for--the--statement--This subsection--does--not--permit--the--nurse--to--practice--for--more than--a--3-month-period--or--in--any--event--after--being--notified by--the--board--through--the--department--that--the--application--for a--license--has--been--denied--or--in--all--cases--after--being notified--by--the--board--through--the--department--to--cease--and desist--this--practice--Notice--shall--be--given--by--registered--or certified--mail--to--the--address--of--the--applicant--as--it--appears in--the--statement--of--application."~~

Section 16. Section 37-8-431, MCA, is amended to read:

"37-8-431. Renewal of license. (1) The license of a person licensed under this chapter must be annually renewed. Before December 1 of each year, the department shall mail an application form for renewal of license to every person to whom a license was issued or renewed during the year. The applicant shall carefully complete and subscribe the application form and return it to the department with a renewal fee of \$10 before January 1.

(2) The board may increase or decrease the annual license fee so as to maintain in the earmarked revenue fund at all times an adequate amount to be used for the purpose of administering, policing, and enforcing the provisions of this chapter. On receipt of the application and fee, the department shall verify the accuracy of the application against its record and from other sources the board considers reliable and issue to the applicant a certificate of renewal for the current year beginning January 1 and expiring December 31 following. The certificate of renewal renders the holder a legal practitioner of nursing for the period stated in the certificate of renewal.

(3) A licensee who allows his license to lapse by failing to renew the license may be reinstated by the board on satisfactory explanation for the failure to renew license and on payment of the current renewal fee prescribed by the board.

(4) A person practicing nursing during the time following the date his license has expired is an illegal practitioner and is subject to the penalties provided for violations of this chapter.

~~(5) The board may establish a reasonable late fee for licensees who fail to renew their license by January 1 as required in subsection (1).~~"

Section 17. Section 37-8-441, MCA, is amended to read:

"37-8-441. Denial, revocation, or suspension of license -- grounds. Only after compliance with 37-8-442, the board, ~~acting under the appropriate administration,~~ may deny, revoke, or suspend a license to practice nursing or discipline a licensee on proof that the person:

(1) is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;

~~(2) is guilty of a crime or gross immorality;~~

~~(3) (2)~~ is unfit or incompetent by reason of negligence, habit, or other causes;

~~(4) (3)~~ is habitually intemperate or is addicted to the use of habit-forming drugs;

~~(5) (4)~~ is mentally or physically incompetent;

~~(6) (5)~~ is guilty of unprofessional conduct;

~~(7) (6)~~ has willfully or repeatedly violated this chapter."

Section 18. Section 37-8-442, MCA, is amended to read:

"37-8-442. Denial, revocation, or suspension of license -- procedure. (1) On filing a sworn complaint in writing with the board charging a person with violation of 37-8-441 as a ground for disciplinary action, the board shall fix a time and place for a public hearing before the board, ~~to be convened in membership as the five-member board for professional nurses or as the eight-member board for practical nurses, depending on the professional or practical status of the licensee, nurse, or person against whom complaint is made.~~

(2) If the person charged is found guilty of the charges, the board may refuse to grant a license to the applicant or may revoke or suspend a license issued to a licensee.

(3) A revoked or suspended license may be reissued after 1 year, in the discretion of the board."

NEW SECTION. Section 19. Temporary work permit. (1) The board may issue a temporary work permit for a period not to exceed 90 days to a registered professional nurse or licensed practical nurse who is currently licensed in another state, a territory of the United States, or the District of Columbia and who is an applicant for licensure by endorsement. Such permit is not renewable.

(2) The board may issue a temporary work permit to a graduate of an approved nursing education program or

1 approved practical nursing education program pending the
2 results of the first licensing examination following
3 graduation. Such permit is not renewable.

4 (3) To protect the public, the board shall adopt such
5 rules as are necessary to limit the practice of persons
6 issued temporary work permits. Such rules shall include a
7 provision that such practice be supervised by a physician,
8 dentist, osteopath, podiatrist, or registered nurse until a
9 license is issued and shall include a definition of
10 supervision.

11 Section 20. Codification instruction. Section 19 is
12 intended to be codified as an integral part of Title 37,
13 chapter 8, and the provisions of Title 37, chapter 8, apply
14 to section 19.

15 Section 21. Effective date. This act is effective on
16 passage and approval.

-End-

COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 418	2-10	2-17, 20	2-20			2-20			
SB 425	2-11	2-16, 20	2-20		2-20				
SB 426	2-11	2-20	2-20			2-20			
SB 427	2-11	2-16, 18	2-18			2-18			
SB 431	2-11	2-18, 20, 3-23	3-23			3-23			
SB 433	2-11	2-18, 20, 3-23							
SB 452	2-13	2-19, 20	2-20			2-20			
SB 453	2-13	2-19, 20	2-20		2-20				
SB 480	2-14	2-19, 20	2-20		2-20				

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

FEBRUARY 16, 1981

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Monday, February 16, 1981 at 12:30 in Room 108 of the State Capitol Building.

ROLL CALL: All members were present. Senator Johnson arrived late. Kathleen Harrington, staff researcher, was also present.

Many, many visitors were in attendance. (See attachments.)

CONSIDERATION OF SENATE BILL 406: Senator Matt Himsl of Senate District 9, co-sponsor of SB 406, gave a brief resume. This bill is an act to reestablish the Board of Cosmetology under existing statutory authority and rules and to generally revise the cosmetologist licensing laws; modifying the board makeup; requiring an annual inspection of cosmetological facilities; eliminating the one-year experience requirement for a manager-operator; deleting some exemptions from licensing; providing for reciprocal licensing for manager-operators; removing the public employees exemption from licensure as an electrologist; and providing an immediate effective date.

Senator Himsl states that a public member has been added to this board. He then took the Committee through the bill section by section.

Alex Hanson, representing the Montana Cosmetologist Association, stated that he is appearing before the Committee representing 1,000 members of his organization who all support this bill and urge for its passage.

With no further proponents, Chairman Hager called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Hearing none, Senator Himsl closed. He stated that he appreciated the support of so many, many people. Senator Himsl then asked the Committee for a favorable recommendation on this bill.

DISPOSITION OF SENATE BILL 406:

A motion was made by Senator Olson that Senate Bill 406 receive a DO PASS recommendation from the Committee. Motion carried unanimously.

PUBLIC HEALTH
PAGE SIX
FEBRUARY 16, 1981

CONSIDERATION OF SENATE BILL 396: Senator Steve Brown of Senate District 15, chief sponsor of SB 396, gave a brief resume of the bill. This bill is an act to eliminate reference to the Board of Massage Therapists and providing an effective date.

Senator Brown stated that this bill was introduced at the request of the Legislative Audit Committee.

There were no proponents to the bill.

Chairman Hager called on the opponents.

Ed Carney from the Department of Professional and Occupational Licensing, stated that HB 636 reestablishes the Board of Massage therapist. He handed out statements from 500-600 people who are interested in seeing that this board is reestablished. The present board is doing a good job in an economical way. It meets twice a year. This is also a moral issue. At the present time we have Montana style massage parlours, however, Mr. Carney stated that he feared without this bill Montana would end up having California style massage parlous.

Tom Honzel, representing the County Attorneys, stood in opposition to the bill.

The meeting was opened to a question and answer period from the Committee.

Senator Brown closed stating that after an eighteen month study that the Legislative Committee had come up with the recommendation of eliminating the Board. He stated that he hoped that the Committee would see their reasoning.

CONSIDERATION OF SENATE BILL 427: Senator Steve Brown of Senate District 15, chief sponsor of SB 427, gave a brief resume of the bill. This bill is an act to reestablish the Board of Nursing under existing statutory authority and rules and to generally revise the laws relating to licensure of nurses; modifying board makeup; providing for staggered 4 year terms for board members; revising definitions of nursing; authorizing temporary nursing permits; providing for a late renewal fee; and providing an immediate effective date.

This bill was requested by the Legislative Audity Committee.

Section 3 changes the membership of the board. It will be -

- (a) 4 registered nurses who are licensed registered professionals with 5 years experience in nursing.
 - (i) one will have 5 years experience in administration, supervision or teaching;
 - (ii) one will be currently engaged in administration, supervision or teaching.
- (b) 3 practical nurses currently practicing and have been doing so for 3 years .
- (c) two public members who are not medical practitioners or involved in nursing.

The members will serve 4-year-staggered terms.

Section (4) eliminates the dual functions of the board (professionals vs practical nursing).
The definitions of professional and practical nursing are changed in (3) (a) and (3) (b).

Section 5. (1) (d) substitutes "nursing education programs" for references to schools of nursing, approved courses or graduates awaiting final examinations.

Section 6 deletes reference to "each administration". It is an unnecessary reference to the changes in state leadership.

Section 7 eliminates the references to the dual administrative functions of the Board.

Section 8 changes the references to schools of nursing to nursing education programs and provides for the adoption of rules to prescribe contents of the programs.

Section 9 provides for a periodic review of the education programs by the Department of Occupational Licensing.

Section 10 states that the Board rather than the department will be responsible for licensing and examination of registered professional nurses.

Section 11. The Board may issue a license to a registered professional nurse who has been licensed in another state.

PUBLIC HEALTH
PAGE EIGHT
FEBRUARY 16, 1981

Section 12 eliminates reference to the prior dual function of the board.

Section 13 states that a practical nurse must graduate from an approved practical nursing education program and meet other requirements prescribed in rules.

Section 14 allows the Board to use a nationally standardized examination for practical nurse licensure.

Section 15 allows the Board to license a practical nurse who was licensed in another state.

Section 16 allows the Board to establish a reasonable late fee for licensees who fail to renew their license on the renewal date.

Section 17 eliminates the reference to "guilty of a crime or gross immorality" for denial of a license.

Section 18 eliminates reference to the prior dual nature of the board.

Section 19 allows the board to issue a temporary work permit for;

- (1) applicants for licensure by endorsement
- (2) graduate nurses waiting for exam results

The board will adopt rules for issuance of the temporary permits.

Carol Janinski, a Licensed Practical Nurse from Havre, stated that she had been a member of the Task Force which studied this board. Current law provides for a dual administration and dual functions of the board. This law provides that all members work together as a single administration. Registered nurses and licensed practical nurses work closely together in their professions and it makes sense and is more efficient to have them work as a single administration on board business. This bill benefits the nursing profession and the general public. She then asked for the support of the Committee for the bill.

Donna Small, a registered nurse from Billings and also a lobbyist for the Montana Nurses' Association, stated that there has not been a major change in the practice act of nurses since 1913. She offered two amendments which are attached with the testimony for the Committee's review. (See attachments.

PUBLIC HEALTH
PAGE NINE
FEBRUARY 16, 1981

Mrs. Small asked the Committee's indulgence in considering the offered amendments. The nurses had opted to work with the Committee Bill rather than submitting an alternative bill for consideration.

Ruth Vanderhorst, a member of the Task Force which studied the Nurse Practice Act, stated that the citizens of Montana need a Board of Nursing which is composed of knowledgeable informed persons who can administer the Nurse Practice Act. The development of standards for nursing education programs; the review and approval or non-approval of those programs; the regulation of technical and professional practice; the hearing of complaints and recommendations of appropriate disciplinary action; the review of applicants for licensure by endorsement from other states; and the participation in development of the licensure examinations demands a Board Nursing composed of a reasonable number of experienced professional nurses. Mrs. Vanderhorst offered amendments for the Committee's review. (See attachments.) She then asked the Committee to accept SB 427 with the amendments suggested in the interest of the people of Montana.

Janie Cromwell, president of the Board of Nursing, stood in support of the bill. She also offered amendments for the Committee to review. Mrs. Cromwell also handed in written testimony. (See attachments.)

Chad Smith, representing the Montana Hospital Association, stood in support of the bill. However, Mr. Smith offered some amendments also which he stated that the Nurses Association had asked him to submit.

Jerome Loendorf, representing the Montana Medical Association stood in support of the bill if it could be amended. Mr. Loendorf offered amendments to be reviewed. (See attachments.)

Mr. Jack McMahon, representing the Montana Medical Association stood in opposition to the bill. He stated that there are several different types of nurses to consider. He stated that he would like to see the bill amended to include the old definition of nurse rather than the new definition, as the old definition has already been established by the courts.

With no further proponents or opponents, Senator Himsl closed. He stated that all the different groups have been working on this concept for the past 18 months and he thought that the problems had all been worked out. Evidently some elements are not satisfied. Senator Himsl then asked the Committee for a favorable recommendation on this bill.

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Carol Jasinski	MSLPNA	427		
Mary Schwend	MSLPNA	427		
Leryl Box	MSLPNA	SB427		
Ken Stalley	MSLPNA	SB427		
Wm. Jasinski	Self	SB427		
Ruth Vandenhout	Task Force - Study Nurse Practice Act	SB427	✓	
Ann M. Pawan R.N.	MNA member - self	SB427		
Janice Cromwell	Board of Nursing	SB427	✓	
U. J. ...	Mt. Mod. Assoc.	SB427		✓
St. ...	Cosmetology Schools	SB427	✓	
...	Cosmetology Schools	SB427	✓	
...	State Bd of Cosmetology	SB427	✓	
...	Board of Cosmetology	SB427	✓	
Donna Small	Mont. Nurses Assoc.	SB427	✓	
...	Legislative Code	SB366		
...	SMALL			
Ellen Parlied	Harve	SB427		
Jenny Sheeky	ASU - Nursing	SB427		
...	Board of Education	SB366		
...	" " "	" "		
...	self	SB427		✓
Edith Herten	Board of Education	425		✓
...	Board of Education	425		✓
...	...	SB366	✓	

February 16, 1981

TESTIMONY OF CAROL JASINSKI ON SENATE BILL 427

Mr. Chairman and members of the committee:

I am Carol Jasinski, a Licensed Practical Nurse from Havre. I am 1st Vice President of the Licensed Practical Nurses Association and I am chairman of our Legislative Committee. I am here today to speak in support of Senate Bill 427.

Because of Montana's sunset law, the Board of Nursing called together a Task Force to study and review the Nurse Practices Act. I was a member of that Task Force.

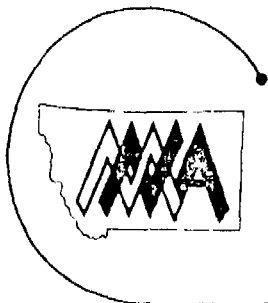
The current composition of the Board of Nursing consists of five Registered Nurses and three Licensed Practical Nurses. This bill provides for one less Registered Nurse and for two new public members. I support the concept of public members on state boards. Members of any profession tend to view that profession from their own viewpoint. Their focus is broadened and expanded when members of the public who are consumers have input in the decision-making process. I believe this is valuable for the profession and a benefit for the general public.

Current law provides for a dual administration and dual functions of the board. This law provides that all members work together as a single administration. Registered Nurses and Licensed Practical Nurses work closely together in their professions and it makes sense and is more efficient to have them work as a single administration on board business.

I also support the changes in this bill regarding the definition of the duties of a Licensed Practical Nurse. The new provision takes into account the scope of changes in the health care field. Currently, Licensed Practical Nurses are trained and educated to perform services which were not included in the previous definition.

This bill benefits the nursing profession and the general public. I ask that you vote in favor of Senate Bill 427.

Thank you.



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59601

My name is Donna Small. I am a Registered Nurse from Billings, Montana, and lobbyist for the Montana Nurses' Association.

Three years ago the Montana State Board of Nursing put out a call to all organized groups of nurses and any unorganized groups for whom a spokesperson could be identified to take part in a task force to study the Nurse Practice Act. There has not been a major change in the practice act since it was passed in 1913. Senate Bill 427 reflects much of the work of this task force.

I would like to draw to your attention 2 editorial changes. Page 8, lines 5 and 6 should read the "practice of nursing or employment of nurses." On page 15, line 11, the word "calling" presumes guilt. We feel the words "which may call" are more appropriate.

We would also like to offer 2 amendments. On page 13, lines 7-13, we would delete "to confer any authority to practice any of the healing arts prescribed by law to be practiced in the State of Montana; or to permit any person to undertake the treatment of disease by any of the methods employed in those arts unless the licensee has been qualified under the applicable law or laws licensing the practice of those professions or healing arts in the state of Montana." Nursing today encompasses parts of many healing arts as nursing has become more technical, very specialized parts are being isolated out and a new "healing art" exists, i.e., the respiratory therapist. This is very much a part of nursing, but in large hospitals it is usually

performed by a specialists in respiratory therapy. However, in a small rural hospital this same role is performed by the nurse. It would be both economically unfeasible and impossible to attain the people to put a respiratory therapist in rural hospitals. This is just 1 example; if time permitted, I could give you many more.

The second amendment is on page 16, lines 12 and 13. We would insert the words, ~~the Board~~ may define the educational requirements and other qualifications applicable to specialty areas of nursing."

This amendment is necessitated by the need to get some uniformity amongst ~~the~~ many specialty areas, such as the nurse practitioner, the nurse anesthetist the nurse midwife. We do not want to have to come back to the legislature every time a new specialty area wants definition and/or recognition.

I ask the committee's indulgence in considering these amendments. We opted to work with the committee bill rather than submitting an alternative bill for you to consider. Thank you for the opportunity to present this to you.

Senate Bill 427 - Testimony before the Senate Public Health Committee

February 16, 1981 by Ruth Vanderhorst, Billings, MT.

Member of the Task Force to study the Nurse Practice Act, Chairperson of its Legislative Drafting Committee.

I urge your support of Senate Bill 427 and your support of the amendments to it offered by the Montana Nurses' Association.

The citizens of Montana need a Board of Nursing which is composed of knowledgeable informed persons who can administer the Nurse Practice Act. The development of standards for nursing education programs; the review and approval or non-approval of those programs; the regulation of technical and professional practice; the hearing of complaints and recommendations of appropriate disciplinary action; the review of applicants for licensure by endorsement from other states; and, the participation in development of the licensure examinations demands a Board of Nursing composed of a reasonable number of experienced professional nurses. It was, therefore, recommended by the Task Force that Senate Bill 427 be amended to include at least the present number of professional nurses on the Board ... 5. (17, 200, 100, 100, 100)

Much attention has been given by the Task Force and by the Legislative Audit of the Board of Nursing to the need of the Board to have the power and duty to make rules regarding nurse specialist practice. Nurse practitioners and nurse anesthetists as well as other prepared specialists in nursing have repeatedly requested that their practice receive attention by the Board. We strongly recommend that an amendment to Senate Bill 427 be added to Section 7 .. that 37-8-202 (insert between lines 12 and 13 - page 16) have a (5) power and duty that reads "the Board may define the educational requirements and other qualifications applicable to speciality areas of nursing". There is a precedent in the law itself for this in terms of nurse-wifery^{m.d.}. Our recommendation is not that the law list every nursing specialty area but that the Board have the power to be responsive to the needs of Montana with rule writing authority in this area.

Section 5 - 38-8-103, page 13, line 7 - 13. We recommend that a period (.) be placed after "there^{of}fore" in line 7 so that it reads "This chapter may not be construed as conferring any authority to practice medicine, surgery, or any combination thereof." The rest of that paragraph so narrows the definition of nursing that ordinary nursing care measures, such as passive exercise of arms and legs of a bedridden patient, may not be undertaken by nurses. Nursing is holistic. Long before some health care groups were licensed nursing was taking care of the whole patient and continues to do so. Healing arts does include nursing. We urge that you consider our suggested change. Exemption 1 (g) page 12 - allows nursing without a license when done in connection with the practice of religious tenets of any well-established religion. We recommend this exemption be removed. Who defines "any well-established" religion or denomination? No one that I know of. There was a time when hospitals did rely on sisters who were not licensed to practice nursing. That time is past and a safeguard to the people of Montana demands licensure. Exemptions already provide for parents' care of the sick. Therefore, again, we recommend this exemption be omitted.

Section 5 38-8-103, page 12, line 16. (1) (e). It is recommended that exempting practice of nurses coming into the state to accompany a patient be limited to 30 days rather than the 6 months identified in the bill. Exemptions longer than 30 days presume a utilization of nurses not in keeping with reality and really allows nursing practice without any knowledge by any agency of the state for unknown periods of time.

I do respectfully request that you accept Senate Bill 427 with the amendments suggested herein in the interest of the people of Montana.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

I'm Janie Cromwell, President of the Board of Nursing. I speak in support of Senate Bill 427, an act to establish the Board of Nursing. For the past 3 years I've been involved with the Nurse Practice Act as chairman of the Task Force to study the Act. I also concur with the amendments offered here this morning as I recognize specific items identified by members of the Task Force as problems with the current law.

I would like to deal first with the membership of the Board of Nursing. After serving 8 years on the Board of Nursing, I'm concerned over the increase in the workload that requires 10 and 12 hours work in each meeting day to complete school surveys, develop policy statements, answer practice questions, review exams, remain aware of national trends to keep Montana graduates current to handle complaints, meet with licensees and the public and on and on. The elimination of a professional nurse member of the Board adds to the burden of those remaining on the Board and may increase our time at meetings which increases costs.

Secondly, I strongly endorse the amendment dealing with the specialty areas of nursing. This field has grown in the last few years, but there are no standards on qualifications to insure the public they have the service of a qualified practitioner. Not only do those involved in specialty practice desire this, but many others, such as the physicians, social workers, and senior citizens do. I did some research and find that in 27 states legislators have given authority to the Board of Nursing to develop rules to identify the extended role of the nurse as well as specify qualifications for practice in that role. The Nurse Practitioner, Pediatric Nurse Practitioner, Family Nurse Practitioner, Geriatric Nurse Practitioner. Psychiatric

Nurse Practitioners, the Certified Registered Nurse Anesthetist, to name only a few, are ones other states have identified. Nineteen other states are currently working on development of such rules.

Thirdly, I also feel strongly that you can't limit the nurse by the exclusion section 37-8-103, number (2). She/he does coordinate the patient's care in execution of the medical orders no matter how many other health disciplines are involved. This would fragment that care and treat the patient as a number of body systems instead of a whole patients. You've already heard those examples here today.

I do request your support of Senate Bill 427 with the amendments submitted.

NAME: JOHN W. T. H. DATE: 2-10-71

ADDRESS: Box 124 55104

PHONE: 407-2080

REPRESENTING WHOM? Henry H. H. H. H.

APPEARING ON WHICH PROPOSAL: 50000

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

27. 921

1. On 27. 9. 1921, the following after the period:
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11. On 27. 9. 1921, the following after the period:
12. On 27. 9. 1921, the following after the period:

NAME: Jerome T. Leach DATE: 7-16-81

ADDRESS: Helena, MT.

PHONE: 447-6350

REPRESENTING WHOM? Pub. School Assoc.

APPEARING ON WHICH PROPOSAL: 477

DO YOU: SUPPORT? _____ AMEND? ☒ OPPOSE? _____

COMMENTS: Re: complete language on page 4 of Bill - Language

delete line 22 through 25 page 4

delete line 1 through 17 page 5

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John W. McNeely, Inc. DATE: 2-16-81

ADDRESS: 2225 11th Ave Helena

PHONE: 1/42-0671

REPRESENTING WHOM? MDA

APPEARING ON WHICH PROPOSAL: SB 427

DO YOU: SUPPORT? _____ AMEND? ✓ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

FEBRUARY 18, 1981

The meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Tom Hager on Wednesday, February 18, 1981 at 6:30 p.m. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present. However, Senator Berg arrived late. Kathleen Harrington, staff researcher, was also present.

DISPOSITION OF SENATE BILL 348: Senator Mike Anderson is the sponsor of this bill. This bill is an act to amend the law relating to the treatment and release of developmentally disabled and mentally ill persons.

A motion was made by Senator Halligan that SB 348 receive a DO NOT PASS recommendation from the Committee. Motion carried unanimously.

DISPOSITION OF SENATE BILL 351: Senator Mark Etchart is the sponsor of SB 351. This bill is an act to remove motorcycles from the list of vehicles that are exempt from the provisions of the mandatory liability protection law governing owners of motor vehicles.

Senator Hager stated that the liability insurance would not cover injuries which the owner of the motorcycles would receive.

Senator Norman stated that auto insurance will cover motorcycles in an accident, but it will not work visa versa.

Senator Himsel stated that the cost is prohibitive in Montana to insure motorcycles, considering the length of time which one can ride them. They cannot be insured for less than an one year period.

Senator Halligan made a motion that the Committee pass consideration of SB 351 temporarily. Motion carried.

DISPOSITION OF SENATE BILL 374: Senator Berg is the sponsor of SB 374. This bill is an act to revise and clarify laws relating to morticians by clarifying the reciprocity provisions for morticians licensed in another state; by requiring continuing education for renewal of a mortician's license after July 1, 1983; and by establishing fees for original mortuary licenses and renewal thereof; and providing an

PUBLIC HEALTH
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FEBRUARY 18, 1981

A motion was made by Senator Norman that SB 392 DO PASS AS AMENDED. Motion carried with everyone voting "yes" except Senators Himsl and Hager.

DISPOSITION OF SENATE BILL 427: Senator Steve Brown is the sponsor of SB 427. This bill is an act to reestablish the Board of Nursing under existing statutory authority and rules and to generally revise the laws relating to licensure of nurses; modifying board makeup; providing for staggered 4-year terms for board members; revising definitions of nursing; authorizing temporary nursing permits; providing for a late renewal fee, and providing an immediate effective date.

Senator Himsl gave a history of this bill.

A motion was made by Senator Berg that SB 427 be amended on on page 7, line 19; following: "least"; strike: "3"; and insert: "5". Also amend page 8, line 3; following: "2" ; strike: "3"; and insert: "5". Motion carried with everyone voting yes, except Senator Olson, who voted "no".

A motion was made by Senator Himsl that the bill be amended on page 8, line 5; following: "practice"; insert: "of nursing". Also amend page 15, line 11; following: "charges"; strike: "calling"; insert: "which may call". Motion carried.

A motion was made by Senator Berg that Sente Bill 427 DO PASS AS AMENDED recommendation from the Committee. Motion carried unanimously.

A motion was made by Senator Berg that the Statement of Intent for SB 427 be adopted. Motion carried.

ANNOUNCEMENT: The next meeting of the Public Health, Welfare and Safety Committee will be held on Thursday, February 19, 1981 at 12:30 in Room 410 to consider SB 480, 452, 453, 418, 388, and SJR 17.

ADJOURN: With no further business the meeting was adjourned.


CHAIRMAN TOM HAGER

FEBRUARY

19 81

MR. PRESIDENT:

We, your committee on PUBLIC HEALTH, WELFARE & SAFETY

having had under consideration SENATE Bill No. 427

Respectfully report as follows: That SENATE Bill No. 427

introduced bill be amended as follows:

1. Page 7, line 19.
Following: "least"
Strike: "3"
Insert: "5"

2. Page 8, line 3.
Following: "2"
Strike: "3"
Insert: "5"

3. Page 8, line 5.
Following: "practice"
Insert: "of nursing"

4. Page 15, line 11.
Following: "charges"
Strike: "calling"
Insert: "which may call"

DO PASS

AND, as amended, DO PASS

Statement of Intent attached

STATUS SHEET

HUMAN SERVICES

COMMITTEE

1981 Legislature (47th Legislative Session)

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 398	Reestab. bd. of morticians; reduce bd. members; restrict. bd. participation; disclos. funeral costs; delete coll- ege require. licensure chgs.	3/3	Brown	3/18	AS AMENDED BE CONCURRED IN	3/19
SB 418	Revise and clarify law creating bd. of pharmacists and laws thereof	3/3	Ochsner	3/13	AS AMENDED BE CONCURRED IN	3/13
SB 426	Reestab. bd of optometrists, terms; remove advertising restrict; authority for con- tact lenses; update grounds revoc. of license; employ.	3/3	Hims1	3/11	AS AMENDED BE BE CONCURRED IN	3/25
SB 427	To reestablish the bd. of nursing under existing stat. auth. and rules; to revise laws relating to licensure; modifying bd. makeup, etc.	3/3	S. Brown	3/6	AS AMENDED BE CONCURRED IN	3/11
SB 452	Reestab. bd. of barbers; revise bd. makeup, exempt. authority, inspections, apprenticeships, licensing price-setting, revocation	3/3	Hims1	transferred to B & I		
SB 307	To delete the requirement that dentists, osteopathic phys., podiatrists, optome- trists and chiropractors must register licenses in counties where they practice.	2/14	Hims1	3/6	BE CONCURRED IN	3/6

V

HUMAN SERVICES COMMITTEE MEETING
March 6, 1981

The Human Services Committee convened at 12:30 p.m., March 6, 1981 in Room 436 of the Capitol with CHAIRMAN BUDD GOULD presiding. All members were present except REPRESENTATIVES BARDANOUVE and KEYSER.

SB 427.

SENATOR STEVE BROWN opened the hearing on SB 427. Since this was to be the first hearing of the "sunset" bills, he gave an explanation of the term. In 1975, the Legislature made a determination that a review would be made to decide whether or not certain agencies had good reason for existence. At this session boards related to the health fields are being examined, such as the boards of nursing, medical examiners etc. The audit committee is checking each of 16 boards, all of which are self-supporting. This bill concerns the board of nursing and recommends that it be reestablished, he said. In this bill, the board has been changed to five (5) RNs, three (3) LPNs and two (2) public members, all of whom can participate fully, he stated. He also said that definitions of nursing have been included, as well as an attempt to standardize the term of education and issuance of temporary permits.

PROPOSERS:

CHAIRMAN GOULD stipulated that the proponents were to be those who prefer the 5-3-2 membership on the board (as the bill is written now), and the opponents are to be those who would prefer a 4-3-2 membership.

DONNA SMALL, a registered nurse from Billings and a lobbyist for the Montana Nurses' Association, appeared as a proponent. She presented written testimony (EXHIBIT I). Her testimony included a proposed amendment to clarify educational requirements.

JANIE CROMWELL, Butte, current president of the Montana State Board of Nursing, presented written testimony favoring the bill. (EXHIBIT II) She felt that the majority of board members should be those with the most knowledge and expertise -- the RNs -- for decision-making regarding licensure and written examinations.

BILL LEARY, representing the Montana Hospital Association, expressed support for the bill and concurred with the proposed amendment of the Nurses' Association. Beth Bain, an RN from Great Falls, testified that she feels the amendment is in the interest of quality care and public protection.

OPPOSERS:

CAROL JASINSKI, Havre, representing the Montana LPN Association, presented written testimony in favor of the bill but opposing the amendment. She said that the LPN faculty and board members participated in the development of the test questions, and that there is a meeting of two parties. The LPN test is administered by the board, she said.

board membership as presented. She felt that the RN membership was much too dominant and would control the policies of the board.
(EXHIBIT III)

DANNY OBERG, representative from Havre, said that the LPN course was being phased out at the college in Havre. There were many complaints as the course provided a supply of nurses for the hospital. The complaints were offered in the interest of public welfare, he said. The complaint about the board membership is also in the public interest and desire for quality care, he felt, and suggested that the board be a 4-3-2 membership, which would be more fair in his opinion.

QUESTIONS FROM THE COMMITTEE:

CHAIRMAN GOULD asked how many RNs and LPNs are practicing their professions, of those who are licensed. DONNA SMALL said that there are over 10,000 RNs and over 3,000 LPNs, but there is nothing on the application which would tell how many are actually working. BILL LEARY said that there are approximately 2500 RNs and 800 LPNs working in Montana hospitals, but said the hospitals are not the only employers of nurses in the state.

REPRESENTATIVE CONN said she was given a booklet on nursing in which it stated that the American Nurses' Association (ANA) is planning to propose a change from the 4 levels of nursing to 2 levels and, thereby, would be doing away with LPNs. She asked for comments by both RNs and LPNs. JASINSKI replied that her testimony explains the present status of all types of nurses. SMALL said she hadn't seen the booklet to which REPRESENTATIVE CONN referred, but the ANA resolution mentioned originated in New York and was called the 85 Resolution. In it the LPN was elevated to a 2-year training period, which would give a broader scope of function, she said. It would eliminate the 3-year RN, and the 2-year RN. However, anyone licensed today would still have to be licensed. A change that drastic could occur only through action of the Legislature, she said. REPRESENTATIVE CONN asked if the Montana Nurses' Association (MNA) supports 85 Resolution. SMALL said it did. She also said the resolution did not eliminate LPNs but elevated them to a higher level of training. She noted that this change was introduced in New York in 1975 and still has not been enacted. It is an attempt to clarify the definition of an RN.

REPRESENTATIVE BRAND asked if all the registered nurses had to take the same test. SMALL said they did.

REPRESENTATIVE BRAND asked if the LPNs took the same test, and where the tests originated. PHYLLIS McDONALD, executive secretary of the Board of Nursing, said that the state board uses national tests. She said that the LPN faculty and board members participate in the development of the test questions, and the test is a one-day test of two parts. The RN test is a two-day tests covering 5 areas, she said.

REPRESENTATIVE BRAND asked if the tests were uniform throughout the United States, which would allow nurses to practice in other states. SMALL said that the test for RNs is nationwide and is scheduled 5 years in advance. The test is given on the same day throughout the country. The state board has the option of participating in that national test or giving their own. Montana and most other states have reciprocity, she said. California is the only state that does not choose to participate in the national test.

REPRESENTATIVE BRAND asked what the reason was for changing the number of years experience of RN board members from 3 to 5. She said the change was an editorial change, picked up by the hospital association. SMALL felt the additional 2 years of experience would be very helpful to a board member, especially in correcting examinations.

REPRESENTATIVE PAVLOVICK asked if CROMWELL would oppose the amendments submitted by SMALL. CROMWELL answered no, that there was a real need for nurse practitioners.

REPRESENTATIVE BRAND asked from where would the public board members be drawn. Would a hospital administrator be allowed on the board as a public member, he wondered. REPRESENTATIVE MENAHAN read page 8 (at the top), saying he felt it meant they could not. REPRESENTATIVE BENNETT said he couldn't see much difference in the definitions. CROMWELL said the language was changed at the request of the Audit Committee and some members of the medical profession.

REPRESENTATIVE MENAHAN agreed with REPRESENTATIVE BRAND about the possibility of a hospital administrator being appointed as a public member.

BILL LEARY said the MHA would have no objection to amending the bill to exclude hospital administrators from the board.

SENATOR BROWN said he felt there might be a problem in allowing the board to set up nurse practitioners or other categories. He told of a problem that developed regarding insurance collection of psychiatrists. He said he would not like to see a wide rift between the RNs, the LPNs and board members. He urged support of the bill with either type of board membership and then closed the hearing, saying the committee would have to make their own decision on the matter.

SB 307.

SENATOR HIMSL opened the hearing on SB 307, which would delete the requirement that several types of professional people register their licenses in the counties in which they practice.

REPRESENTATIVE DEVLIN asked if the doctors were worried that the PTs would not refer the patient to the doctor. DR. STRIZICH said no, but was concerned that a patient who might need a very broad evaluation, would only receive a limited one. And, he said, if the PT decided the patient didn't need to see a doctor, then the PT has made a diagnosis. He agreed with GAJDOSIK that patients should receive therapy as soon as possible.

REPRESENTATIVE BENNETT felt that on line 25 (3) regarding "evaluation" he felt clarification was needed. HAGER said the bill wasn't written the way it was drafted in the Legislative Council

REPRESENTATIVE MANNING asked DALBECK to comment. DALBECK said 'the PTs are proud of their profession and don't want to do anything that would harm their profession. She feels that the PTs have a great deal to offer the patients, as do the doctors, both within their realms.

CHAIRMAN GOULD said the main thing that concerns the committee is the "off the street" situation, where a patient comes in for evaluation and then is referred to a doctor and back to the PT. How will this save the patient money, he wondered. Also, he asked if the main reason the bill was drafted was for the PTs practicing in school settings.

SENATOR HAGER said the bill was to have been drafted differently and that he feels "evaluation" is different from "diagnosis". RUSS commented that a discussion between SENATOR HAGER and the bill drafter might clear up the matter.

SENATOR HAGER closed the hearing on the bill.

EXECUTIVE SESSION.

REPRESENTATIVE KEYSER MOVED a DO PASS for SB 307. The motion was seconded and PASSED UNANIMOUSLY.

REPRESENTATIVE CONN moved that SB 307 be placed on the Consent Calendar. The motion was seconded and PASSED UNANIMOUSLY.

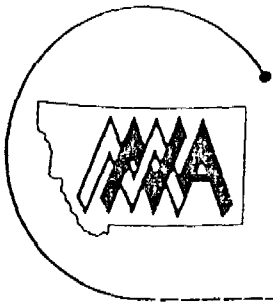
SB 427.

CHAIRMAN GOULD announced that action will be taken on this bill at a future meeting. The subcommittee studying the bill is comprised of REPRESENTATIVE WINSLOW, SIVERTSON and MENAHAN.

SB230.

CHAIRMAN GOULD announced that RUSS JOSEPHSON and SENATOR HAGER will consult and work out the problems in SB 230.

CHARIMAN GOULD announced that the next meeting would be held on the



Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59601

March 6, 1981

My name is Donna Small. I am a Registered Nurse from Billings and Lobbyist for the Montana Nurses' Association.

Three years ago the Montana State Board of Nursing put out a call to all organized groups of nurses and any unorganized groups for whom a spokesperson could be identified to take part in a task force to study the Nurse Practice Act. There has not been a major change in the practice act since it was passed in 1913. Senate Bill 427 reflects much of the work of this task force.

The Montana Nurses' Association in support of their members and for the added protection of the public wishes to submit the following amendment. On page 16, between lines 12 and 13, we would like to insert item #5 to read as follows:

"The Board may define the educational requirements and other qualifications applicable to specialty areas of nursing."

We support the remainder of the bill in its entirety and encourage your support.

I will be happy to answer any questions for the Committee; and Phyllis McDonald, Executive Secretary of the Board of Nursing, is also here to answer questions.

TESTIMONY OF CAROL JASINSKI, LICENSED PRACTICAL NURSE, C. SENATE BILL 427, HEARINGS OF THE HOUSE PUBLIC HEALTH COMMITTEE, MARCH 6, 1981.

I am Carol Jasinski, a licensed practical nurse, or LPN. I represent the Montana LPN Association.

I am here in support of SB 427, but also to oppose one small section of the bill. My association supported this bill as it was originally recommended by the Legislative Audit Committee. We supported the composition of the Board of Nursing with 4 registered nurses, or RNs, 3 LPNs and 2 consumers. However, on the floor of the Senate there was an amendment to add one more RN to the board. We strongly oppose that particular part of the bill. Please let me explain why.

In the public mind, a nurse is a nurse, but there are four different types of nurses. There is a four-year nurse with four years of college and a college degree. They are called RNs or registered nurses. There are three-year nurses who take a three year diploma program combining on the job training in hospitals with courses taught at college. They are also RNs. There are two-year nurses with an associate degree for two years of college. They are also RNs. And there are LPNs or licensed practical nurses who are trained in vocational schools over periods from 12 to 18 months. Like the three types of RNs, they must pass a national examination for licensure.

After a three year task force study, of which I was a part, as were many others in the nursing profession, the task force report was submitted to the Legislative Audit Committee and that Committee concluded the Board of Nursing should be comprised of four RNs, three LPNs and two consumers. This is how SB 427 was originally written.

A board as proposed by the original bill will give a more equal distribution of the workload and will be the first time there will be a combined board for all nursing education.

The purpose of the law and the board is to safeguard the life and health of the citizens of the state through assuring quality education leading to licensure of a competent beginning practitioner, RN or LPN.

SB 427 places rule making policies in the hands of the board. As SB 427 was amended in the Senate it would appear these rules would lean heavily toward RN dominance and once again the LPN and the consumer would be left out.

Should a board be controlled by only faction or should members be fairly representative?

I feel that because many LPNs have academic degrees in other areas and/or have continued education in areas other than nursing; and the same can be said for the consumer; that they are well qualified to participate in the rule and decision making of this new board of a single administration as proposed in SB 427.

It should be clearly understood that the LPN Association does not oppose other amendments which were written into the bill in the Senate Public Health Committee. We do oppose the overbalance of RNs to the board.

We strongly urge a do pass of SB 427 with the composition of the board being amended to once again read on page 7, line 2 the number nine, page 7, line 4 the number four and page 14, line 6, the number nine. Thank you.

STATE LAW JOURNAL

HUMAN SERVICES COMMITTEE MEETING
March 11, 1981

MAY 15 1981

OF MONTANA

The Human Services Committee convened at 12:30 p.m. in Room 103 of the Capitol on March 11, 1981, with Chairman Budd Gould presiding. All members were present except Representative Bardanouve.

SB 212

BOB ADAMS, attorney for the Department of Health and Sciences, appeared for the sponsor, SENATOR HAGER, who was unable to be at the hearing. He said the bill was a proposal to provide a program of hazardous waste management separate from the nonhazardous solid waste management program in Montana. (See EXHIBIT I) He called to the attention of the committee the last page of the exhibit. He said that, even if the Appropriations Committee cut off all funds for hazardous wastes, it might be possible for DHES to work with the federal agency in dealing with this matter. The DHES would like the law on the books, so that ultimately there will be a program governed by Montanans, he said.

PROPOSERS:

PAT STUART, director of the Montana Coal Council, appeared in favor of the bill and agreed that the program should be governed by Montanans.

ROBERT N. HELDING, attorney and executive director of the Montana Wood Products Association, urged support of the bill and favors Montana administration.

DON ALLEN, director of the Petroleum Association, felt it was inconceivable for the state to allow the "feds" to run the hazardous waste program.

BEN HAVDAHL, Montana Motor Carriers Association, appeared in favor of the bill. His association supports state administration, but felt that regulations of transporting materials should be of a uniform nature, as the materials would be transported from one state to another.

BOB QUINN, Montana Power lobbyist, asked to be placed on the record as favoring the bill.

MARGARET S. WARDEN, former senator, said that she favors the bill and Montana control. She also said that Montana industry favors the bill.

DAWN NORTH, representing the League of Women Voters, appeared in support of the bill.

REP. CONN asked about the evaluation to decide whether or not a person should wear contact lenses, and whether that had to be made by the person examining the eye.

ESPELAND said that the person who fits the lenses is responsible for them. He said he objects to a lay person fitting contact lenses. He said that he personally sells the lenses for cost and that the only additional cost is for the examination.

DR. BURTON commented that one optometrist charged \$400 for contact lenses the patient couldn't wear, fitted him with another pair for \$450 and for \$900 the man ended up with lenses he still couldn't wear. He also questioned the training of the optometrists.

CHAIRMAN GOULD asked that no further comments be made. Only those answering questions are allowed to speak, he said.

REP. BRAND asked how the opthamologists feel about this matter.

DR. LOREN MCKERROW, Helena, representing the Montana Medical Association and the Academy of Opthamologists, said the Academy is in agreement with the bill as it is written.

REP. SEIFERT asked if there wasn't a provision in the bill, on page 11, regarding corporations.

SENATOR HIMSL recommended that the committee amend the bill so that it does not include corporations other than "professional corporations."

For clarification, CHAIRMAN GOULD asked if SENATOR HIMSL thought it would be fine for a group of doctors to incorporate, but that working for a large chain (such as Sears) would be illegal.

HIMSL agreed.

SENATOR HIMSL closed the hearing.

EXECUTIVE SESSION

HB 427

CHAIRMAN GOULD asked for a report on HB 427 by the subcommittee appointed to study the bill, which concerns the Board of Nursing. He felt the committee should take action on the

bill, as a group of nurses would like to come to Helena Friday to hear it in the House.

REP. WINSLOW said the main controversy concerned the number and ratio of members on the board. He said the subcommittee recommended returning to a 4-3-2 membership. The subcommittee also recommended amending page 16, line 12, adding a subsection regarding special care nursing, excluding hospital administration personnel from being on the board and a clarification on the Statement of Intent.

REP. WINSLOW moved that the board membership be 4-3-2, that is, as the bill came out of the Audit Committee. After some discussion by the committee members, a vote on the amendment was taken. The amendment PASSED by 11 to 5 with the following members voting No: Representatives BRAND, MANNING, DEVLIN, BERGENE and PAVLOVICH.

REP. WINSLOW MOVED that the remainder of the subcommittee's amendments be accepted by the committee. The motion PASSED UNANIMOUSLY.

REP. WINSLOW MOVED the STATEMENT OF INTENT. It was seconded and PASSED UNANIMOUSLY.

REP. CONN MOVED the BILL BE CONCURRED IN AS AMENDED. The motion was seconded and PASSED UNANIMOUSLY.

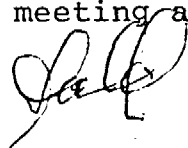
SB 230

REP. MANNING moved that SB 230 be RECONSIDERED by the committee. The motion PASSED by a vote of 9 Yes and 7 No votes, the No votes being cast by Representatives KEYSER, SEIFERT, BENNETT, SIVERTSEN, DEVLIN, SWITZER and BRAND.

REP. NILSON presented testimony to committee members written by a Helena physical therapist for their information.

REP. MENAHAN moved that SB 230 be CONCURRED IN. The motion was seconded and PASSED by a vote of 10 Yes, 5 No, and 2 absent. The No votes were cast by Representatives KEYSER, SEIFERT, BENNETT, DEVLIN and BRAND.

The meeting adjourned at 3:00 p.m.



CHAIRMAN BUDD GOULD

1 STATEMENT OF INTENT

2 SENATE BILL 427

3 Senate Public Health, Welfare and Safety Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Board of Nursing in
7 sections 7, 8, 10, 14, 16, and 19. SECTION 7 ALLOWS THE
8 BOARD OF NURSING TO APPROVE CERTAIN PROGRAMS RELATED TO
9 REGISTRATION AND LICENSURE AND THE SECTION ALSO PERMITS THE
10 BOARD TO DEFINE THE EDUCATIONAL REQUIREMENTS AND OTHER
11 QUALIFICATIONS APPLICABLE TO SPECIALTY AREAS OF NURSING. IT
12 IS THE INTENT OF THE LEGISLATURE THAT THE RULES ADOPTED BY
13 THE BOARD PURSUANT TO THESE DELEGATIONS OF RULEMAKING POWER
14 BE SUFFICIENT TO ENSURE THE COMPETENCY OF THOSE PRACTICING
15 NURSING IN MONTANA. PROGRAM APPROVAL RULES ARE INTENDED TO
16 BE AS DESCRIBED IN THE FOLLOWING PARAGRAPH. RULES CONCERNING
17 SPECIALTY AREAS SHOULD ADDRESS THE OVERALL NATURE OF THE
18 REQUIRED COURSES. THE APPROVAL OF SUCH COURSES THROUGH
19 AMERICAN NURSES' ASSOCIATION CERTIFICATION OR BY OTHER
20 MEANS, AND THE PROHIBITION OF THE USE OF A TITLE INDICATING
21 A NURSING SPECIALTY BY A PERSON NOT APPROVED BY THE BOARD AS
22 SUCH A SPECIALIST.

23 Section 8 grants the Board authority to adopt rules
24 relating to the conduct of nursing education programs. It is
25 the intent of the Legislature that the rules adopted relate

1 directly toward the nursing education programs insuring that
2 the qualifications of a professional nurse or a practical
3 nurse are adequate in the areas of services to be provided
4 specified in section 4.

5 Sections 10 and 14 grant rulemaking authority to the
6 Board to establish passing scores for the professional and
7 practical nurse examinations and establish requirements for
8 rewriting the examination. It is the intent of the
9 Legislature that the examination scores established be such
10 as to insure the competency of applicants for licensure to
11 protect the public health. Rules for rewriting the
12 examination must provide assurance that the competency is as
13 great as for applicants passing a first examination.

14 Section 16 authorizes the Board to establish a late
15 renewal fee. It is the intent of the Legislature that such
16 fee be sufficient to cover the additional expense incurred
17 in processing late renewals.

18 Section 19 allows the Board to grant temporary work
19 permits. It is the intent of the Legislature that such
20 permits be strictly controlled and that permittees work
21 under the direct supervision of a physician, dentist,
22 osteopath, podiatrist, or professional nurse. The Board
23 shall specifically define "direct supervision".

SENATE BILL NO. 427

INTRODUCED BY S. BROWN, HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE BOARD OF NURSING UNDER EXISTING STATUTORY AUTHORITY AND RULES AND TO GENERALLY REVISE THE LAWS RELATING TO LICENSURE OF NURSES; MODIFYING BOARD MAKEUP; PROVIDING FOR STAGGERED 4-YEAR TERMS FOR BOARD MEMBERS; REVISING DEFINITIONS OF NURSING; AUTHORIZING TEMPORARY NURSING PERMITS; PROVIDING FOR A LATE RENEWAL FEE; AMENDING SECTIONS 2-8-103, 2-15-1610, 37-8-102, 37-8-103, 37-8-201, 37-8-202, 37-8-301, 37-8-302, 37-8-406, 37-8-407, 37-8-409, 37-8-415 THROUGH 37-8-417, 37-8-431, 37-8-441, AND 37-8-442, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, The sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Board of Nursing and requires a performance evaluation of the Board by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation, the Legislative Audit Committee recommends that the Board of Nursing be reestablished under existing statutory authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Reestablishment. The board of nursing is reestablished for 6 years pursuant to 2-8-122 with its existing statutory authority and rules.

Section 2. Section 2-8-103, MCA, is amended to read: "2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) commission for human rights, department of labor and industry, created by 2-15-1706;

(b) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(c) board of barbers, department of professional and occupational licensing, created by 2-15-1625;

(d) board of chiropractors, department of professional and occupational licensing, created by 2-15-1613;

1 (e) board of cosmetologists, department of
2 professional and occupational licensing, created by
3 2-15-1626;

4 (f) board of dentists, department of professional and
5 occupational licensing, created by 2-15-1606;

6 (g) board of hearing aid dispensers, department of
7 professional and occupational licensing, created by
8 2-15-1616;

9 (h) board of massage therapists, department of
10 professional and occupational licensing, created by
11 2-15-1627;

12 (i) Montana state board of medical examiners,
13 department of professional and occupational licensing,
14 created by 2-15-1605;

15 (j) board of morticians, department of professional
16 and occupational licensing, created by 2-15-1619;

17 ~~{k}--board-of-nursing-department-of--professonat--and~~
18 ~~occupational-licensing-created-by-2-15-1610;~~

19 ~~{t}{k}~~ board of nursing home administrators,
20 department of professional and occupational licensing,
21 created by 2-15-1611;

22 ~~{m}{l}~~ board of optometrists, department of
23 professional and occupational licensing, created by
24 2-15-1612;

25 ~~{n}{m}~~ board of osteopathic physicians, department of

1 professional and occupational licensing, created by
2 2-15-1607;

3 ~~{o}{n}~~ board of pharmacists, department of
4 professional and occupational licensing, created by
5 2-15-1609;

6 ~~{p}{o}~~ board of podiatry examiners, department of
7 professional and occupational licensing, created by
8 2-15-1608;

9 ~~{q}{p}~~ board of psychologists, department of
10 professional and occupational licensing, created by
11 2-15-1617;

12 ~~{r}{q}~~ board of radiologic technologists, department
13 of professional and occupational licensing, created by
14 2-15-1614;

15 ~~{s}{r}~~ board of speech pathologists and audiologists,
16 department of professional and occupational licensing,
17 created by 2-15-1615;

18 ~~{t}{s}~~ board of veterinarians, department of
19 professional and occupational licensing, created by
20 2-15-1618;

21 ~~{u}{t}~~ board of veterans' affairs, department of
22 social and rehabilitation services, created by 2-15-2202;

23 ~~{v}{u}~~ board of sanitarians, department of
24 professional and occupational licensing, created by
25 2-15-1631.

1 (3) The following units of state government shall
2 terminate on July 1, 1983:

3 (a) board of aeronautics, department of community
4 affairs, created by 2-15-1103;

5 (b) state board of hail insurance, department of
6 agriculture, created by 2-15-3003;

7 (c) board of horse racing, department of professional
8 and occupational licensing, created by 2-15-1662;

9 (d) board of livestock, department of livestock,
10 created by 2-15-3102;

11 (e) board of milk control, department of business
12 regulation, created by 2-15-1802;

13 (f) board of oil and gas conservation, department of
14 natural resources and conservation, created by 2-15-3303;

15 (g) Montana outfitters council, department of fish,
16 wildlife, and parks, created by 2-15-3403;

17 (h) public service commission, department of public
18 service regulation, created by 69-1-102;

19 (i) board of water and wastewater operators,
20 department of health and environmental sciences, created by
21 2-15-2105;

22 (j) board of water well contractors, department of
23 professional and occupational licensing, created by
24 2-15-1632.

25 (4) The following agencies terminate on July 1, 1985:

1 (a) the board of public accountants, created by
2 2-15-1641;

3 (b) the board of architects, created by 2-15-1651;

4 (c) state banking board, department of business
5 regulation, created by 2-15-1803;

6 (d) the state electrical board, created by 2-15-1654;

7 (e) the board of professional engineers and land
8 surveyors, created by 2-15-1653;

9 (f) office of commissioner of insurance and the
10 insurance department, state auditor's office, created by
11 2-15-1902 and 2-15-1903;

12 (g) office of the securities commissioner, state
13 auditor's office, created by 2-15-1901;

14 (h) the board of landscape architects, created by
15 2-15-1652;

16 (i) the board of county printing, created by
17 2-15-1102;

18 (j) the board of plumbers, created by 2-15-1655;

19 (k) board of physical therapy examiners, created by
20 2-15-1628.

21 (5) The following agency terminates on July 1, 1987:
22 the board of nursing, department of professional and
23 occupational licensing, created by 2-15-1610."

24 Section 3. Section 2-15-1610, MCA, is amended to read:
25 "2-15-1610. Board of nursing. (1) There is a board of

nursing.

(2) The board consists of ~~eight~~ nine ~~TEN~~ NINE members appointed by the governor. The members are:

(a) ~~five~~ four ~~FIVE~~ FOUR registered professional nurses; ~~who--constitute--the--board--professional--nursing administration--At~~ at least three members one such member shall have had at least 3 5 years in administrative, teaching, or supervisory experience in one or more schools of nursing and at least one such member must be currently engaged in the administration, supervision, or provision of direct client care. Each member shall:

(i) be a graduate of an approved school of nursing;

(ii) be a licensed registered professional nurse in this state;

(iii) have had at least 5 years' experience in nursing following graduation; and

(iv) ~~have--been--actively~~ be currently engaged in the practice of professional nursing and have practiced for at least 3 5 years ~~immediately-before-appointment.~~

(b) ~~three practical nurses who--constitute--the board--practical-nursing-administration.~~ Each member shall:

(i) be a graduate of a school of practical nursing;

(ii) be a licensed practical nurse in this state;

(iii) have had at least 3 5 years' experience as a practical nurse; and

(iv) ~~have-been-actively~~ be currently engaged in the practice of practical nursing and have practiced for at least 2 3 5 years ~~immediately-before-appointment.~~

~~(c) two public members who are not medical practitioners, or involved in the practice of nursing or employment of nursing, or administrators of Montana health care facilities.~~

(3) All members shall have been residents of this state for at least 1 year before appointment and be citizens of the United States.

~~(4) All members shall serve for a term of 5 years. Members shall serve staggered 4-year terms,~~ and a member may not be appointed for more than two consecutive terms. The governor may remove a member from the board for neglect of a duty required by law or for incompetency or unprofessional or dishonorable conduct.

(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 4. Section 37-8-102, MCA, is amended to read:

"37-8-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means the board of nursing provided for in 2-15-1610 ~~with dual functions in the field of professional nursing and practical nursing. In matters relating to professional nursing, the board consists of five members; in~~

1 ~~matters relating to practical nursing, the board consists of~~
 2 ~~eight members. The board of five members may for~~
 3 ~~convenience be referred to as the "board" followed by the~~
 4 ~~words "professional nursing administration" and the board~~
 5 ~~of eight members may for convenience be referred to as the~~
 6 ~~"board" followed by the words "practical nursing~~
 7 ~~administration"~~

8 (2) "Department" means the department of professional
 9 and occupational licensing provided for in Title 2, chapter
 10 15, part 15.

11 (3) "Practice of nursing" embraces two classes of
 12 nursing service and activity, as follows:

13 (a) "Practice of professional nursing" means the
 14 performance for compensation of an act in the observation,
 15 care and counsel of the ill, injured or infirm or in the
 16 maintenance of health or prevention of illness of others or
 17 in the supervision and teaching of other personnel or the
 18 administration of medications and treatments prescribed by a
 19 person licensed in this state to prescribe medications and
 20 treatments, requiring substantial specialized judgment and
 21 skill and based on knowledge and application of the
 22 principles of biological, physical, and social sciences,
 23 services requiring substantial specialized knowledge of the
 24 biological, physical, behavioral, psychological, and
 25 sociological sciences and of nursing theory as a basis for

1 the nursing process. The nursing process is the assessment,
 2 nursing analysis, planning, nursing intervention, and
 3 evaluation in the promotion and maintenance of health; the
 4 prevention, casefinding, and management of illness, injury,
 5 or infirmity; and the restoration of optimum function. The
 6 term also includes administration, teaching, counseling,
 7 supervision, delegation, and evaluation of nursing practice
 8 and the administration of medications and treatments
 9 prescribed by physicians, dentists, osteopaths, or
 10 podiatrists authorized by state law to prescribe medications
 11 and treatments. Each registered nurse is directly
 12 accountable and responsible to the consumer for the quality
 13 of nursing care rendered. As used in this subsection (3)(a):

14 (i) "nursing analysis" is the identification of those
 15 client problems for which nursing care is indicated and may
 16 include referral to medical or community resources;

17 (ii) "nursing intervention" is the implementation of a
 18 plan of nursing care necessary to accomplish defined goals.

19 (b) "Practice of practical nursing" means the
 20 performance for compensation in the care of the ill,
 21 injured or infirm of acts selected by and performed under
 22 the direction of a registered professional nurse or a person
 23 licensed in this state to prescribe medications and
 24 treatments and not requiring the substantial specialized
 25 skill, judgment and knowledge required in professional

nursing of services requiring basic knowledge of the biological, physical, behavioral, psychological, and sociological sciences and of nursing procedures. Practical nursing practice utilizes standardized procedures leading to predictable outcomes in the observation and care of the ill, injured, and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments. These services are performed under the supervision of a registered nurse or a physician, dentist, osteopath, or podiatrist authorized by state law to prescribe medications and treatments.

(4) "Nursing education program" means any board-approved school that prepares graduates for initial licensure under this chapter. Nursing education programs for:

(a) professional nursing may be a department, school, division, or other administrative unit in a senior or junior college or university;

(b) practical nursing may be a department, school, division, or other administrative unit in a vocational-technical center or junior college."

Section 5. Section 37-8-103, MCA, is amended to read:

"37-8-103. Exemptions -- limitations on authority

conferred. (1) No provisions of this law may be construed as prohibiting:

(a) gratuitous nursing by friends or members of the family;

(b) incidental care of the sick by domestic servants or persons primarily employed as housekeepers;

(c) nursing assistance in the case of an emergency;

(d) the practice of nursing by students enrolled in approved schools of nursing or approved courses or by the graduates of such schools or courses pending the results of the first licensing examination scheduled by the board following their graduation nursing education programs;

(e) the practice of nursing in this state by any legally qualified nurse of another state whose engagement requires the nurse to accompany and care for a patient temporarily residing in this state during the period of one such engagement not to exceed 6 months in length, provided that person does not represent or hold herself or himself out to be a nurse licensed to practice in this state;

(f) the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of that nurse's official duties;

(g) nursing or care of the sick, with or without compensation, when done in connection with the practice of

1 the religious tenets of any well-established religion or
2 denomination by adherents thereof;

3 (h) nursing or care of a minor who is in the care of a
4 licensed foster parent, to the same extent such care may be
5 provided by a parent or guardian.

6 (2) This chapter may not be construed as conferring
7 any authority to practice medicine, surgery, or any
8 combination thereof; to confer any authority to practice any
9 of the healing arts prescribed by law to be practiced in the
10 state of Montana; or to permit any person to undertake the
11 treatment of disease by any of the methods employed in those
12 arts unless the licensee has been qualified under the
13 applicable law or laws licensing the practice of those
14 professions or healing arts in the state of Montana."

15 Section 6. Section 37-8-201, MCA, is amended to read:

16 "37-8-201. Seal -- board records public -- legal
17 counsel. (1) The board shall have a seal which shall be used
18 to authenticate its acts ~~under each administration~~. The seal
19 shall have inscribed the words "Board of Nursing--Official
20 Seal" and a device or legend designated by the board.

21 (2) The records and files of the board kept by the
22 department are at all times open to public inspection.

23 (3) The attorney general is the attorney and legal
24 counsel for the board, but the department may, with the
25 approval of the attorney general, appoint additional legal

1 counsel to assist the board and department in the
2 administration and enforcement of this chapter."

3 Section 7. Section 37-8-202, MCA, is amended to read:

4 "37-8-202. Organization -- meetings -- powers and
5 duties ~~----dual--administration~~. (1) The board~~--practical~~
6 ~~nursing-administration~~ shall meet annually ~~in the month of~~
7 ~~duty~~ and shall elect from among the ~~eight~~ nine ~~TEN~~ NINE
8 members a president and a secretary~~--each--of--whom--is--a~~
9 ~~professional---nurse~~. The board~~--practical---nursing~~
10 ~~administration~~ shall hold other meetings when necessary to
11 transact its business. ~~The--board--professional--nursing~~
12 ~~administration--shall--meet--annually--in--duty--and--shall--hold~~
13 ~~other--meetings--when--necessary--to--transact--its--business~~. A
14 majority of the board as~~--separately--constituted--for--each~~
15 ~~administration--including--in--the--majority--at--least--one~~
16 ~~officer--of--the--board~~ constitutes a quorum at any meeting;
17 ~~however--when--sitting--as--the--practical--nursing~~
18 ~~administration--a--quorum--consists--of--a--minimum--of--two~~
19 ~~practical--nurse--members--and--three--professional--nurse~~
20 ~~members--including--one--board--officer~~. The department shall
21 keep separate~~--and~~ complete minutes and records of the
22 ~~respective-administration~~ meetings and rules and orders
23 promulgated by ~~each--administration--of the board--and--each~~
24 ~~administration--shall--exercise--its--functions--powers--and~~
25 ~~duties--exclusive--of--the--other--except--for--the--identity--and~~

1 membership-provided-in-this-chapter.

2 (2) The board under-each-administration may make rules
3 necessary to enable--the--respective--administrations---to
4 administer this chapter. The board under-each-administration
5 shall prescribe curricula--and standards for schools and
6 courses preparing persons for registration and licensure
7 under this chapter. It shall provide for surveys of schools
8 and-courses at times it considers necessary. It shall
9 approve schools---and---courses programs that meet the
10 requirements of this chapter and of the board. The
11 department shall, subject to 37-1-101, examine and issue to
12 and renew licenses of qualified applicants. The board shall
13 conduct hearings on charges calling WHICH MAY CALL for
14 discipline of a licensee, revocation of a license, or
15 removal of schools of nursing from the approved list. It
16 shall cause the prosecution of persons violating this
17 chapter and may incur necessary expenses for this.

18 (3) The board under-each-administration may adopt and
19 the department shall publish forms for use by applicants and
20 others, including license, certificate, and identity forms
21 and other appropriate forms and publications convenient for
22 the proper administration of this chapter, and the board may
23 fix reasonable fees for incidental services, all within the
24 subject matter delegated to--each--administration by this
25 chapter. Forms--shall---make---clear---reference---to---the

1 administration-for-which-the-form-is-intended.

2 (4)--Unless--the-context-requires-otherwise, the powers
3 and-duties-enumerated-in-this-chapter-shall-be-exercised-and
4 performed-by-the-board--professional-nursing--administration
5 in---all---matters---relating---to--professional--nurses--or
6 professional-nursing-education-and-shall--be--exercised--and
7 performed--by--the--board-inclusive-of-the-practical-nursing
8 administration-in-all-matters-relating-to--practical--nurses
9 and--practical--nursing-education. The-officers-of-the-board
10 shall-also-be-the-officers-of-the--board--inclusive--of--the
11 practical-nursing-administration.

12 (4) The board may participate in and pay fees to a
13 national organization of state boards of nursing to assure
14 interstate endorsement of licenses."

15 (5) THE BOARD OF NURSING MAY DEFINE THE EDUCATIONAL
16 REQUIREMENTS AND OTHER QUALIFICATIONS APPLICABLE TO
17 SPECIALTY AREAS OF NURSING. SPECIALTY AREAS OF NURSING ARE
18 THOSE THAT REQUIRE ADDITIONAL PROFESSIONAL EDUCATION BEYOND
19 THE BASIC NURSING DEGREE REQUIRED OF A REGISTERED NURSE,
20 WHICH ADDITIONAL EDUCATION IS OBTAINED IN COURSES OFFERED IN
21 A UNIVERSITY SETTING OR ITS EQUIVALENT AND CERTIFIED BY THE
22 AMERICAN NURSES' ASSOCIATION. SPECIALTY AREAS OF NURSING
23 INCLUDE NURSE PRACTITIONERS, NURSE-MIDWIVES, AND
24 NURSE-ANESTHETISTS.

25 Section 8. Section 37-8-301, MCA, is amended to read:

1 ~~"37-8-301. Schools--of---nursing~~ Nursing education
 2 programs -- application for approval. An institution
 3 desiring to conduct a ~~school-of--professional--or--practical~~
 4 nursing education program in the state shall apply to the
 5 department and submit evidence that:

6 ~~(1)--it-is-prepared-to-carry-out-the--prescribed--basic~~
 7 ~~professional-nursing-curriculum-or-the-prescribed-curriculum~~
 8 ~~for-practical-nursing-as-the-case-may-be--and~~

9 ~~(2)--it-is-prepared-to-meet-other-standards-established~~
 10 ~~by-this-law-and-by-the-board: it is prepared to carry out an~~
 11 educational program that complies with the provisions of
 12 this chapter and the rules adopted by the board pursuant to
 13 this section. The board shall adopt rules relating to the
 14 conduct of nursing education programs that are directed
 15 toward insuring qualifications to practice as a professional
 16 nurse or a practical nurse in those areas of service
 17 specified in 37-8-102."

18 Section 9. Section 37-8-302, MCA, is amended to read:

19 ~~"37-8-302. Schools---of---nursing~~ Nursing education
 20 programs -- survey and approval. (1) ~~A-survey-of-the--school~~
 21 ~~and--institution-or-institutions-with-which-the-school-is-to~~
 22 ~~be-affiliated-shall-be-made-by-the-department--which--shall~~
 23 ~~submit-a-detailed-written-report-of-the-survey-to-the-board:~~
 24 It is the duty of the department through its authorized
 25 employees or representatives to periodically survey all

1 nursing education programs. Written reports of such surveys
 2 shall be submitted to the board. If, in the opinion of the
 3 board, the requirements for an approved school-of-nursing
 4 ~~{professional-or-practical}~~ nursing education program are
 5 met, ~~it--shall--approve-the-school-as-an-approved-school-of~~
 6 nursing the program shall be granted initial or continuing
 7 approval.

8 (2) When if the board determines that an any approved
 9 school-of nursing education program is not maintaining the
 10 standards required by law and the rules established by the
 11 board, notice in-writing shall be given to the nursing
 12 education program specifying the ~~defect-shall-be-immediately~~
 13 ~~given--to--the-school~~ areas of noncompliance. A ~~school-which~~
 14 program that fails to correct these conditions--~~to--the~~
 15 ~~satisfaction--of--the--board~~ areas of noncompliance within a
 16 reasonable the time designated by the board shall be removed
 17 from the list of approved ~~schools--of~~ nursing education
 18 programs."

19 Section 10. Section 37-8-406, MCA, is amended to read:

20 ~~"37-8-406. Professional~~ License -- professional
 21 nursing -- examination -- fee. (1) An applicant for a
 22 license to practice as a registered professional nursing
 23 nurse is required to pass a written examination in subjects
 24 the board,---acting---under---the---~~professional--nursing~~
 25 ~~administration,~~ determines necessary. A written examination

1 may be supplemented by an oral or practical examination. On
 2 ~~successfully passing the examination, the department shall~~
 3 ~~issue to the applicant a license to practice nursing as a~~
 4 ~~registered professional nurse. The applicant shall pay a fee~~
 5 ~~of \$35 at the time the application is submitted, which shall~~
 6 ~~be returned to the applicant if the application is withdrawn~~
 7 ~~not later than 5 days prior to the date of examination or if~~
 8 ~~the examination is not taken, subject to deduction by the~~
 9 ~~department of \$1 per subject of the examination which shall~~
 10 ~~be retained by the department. The board may use any~~
 11 ~~national standardized examination for professional nurse~~
 12 ~~licensure identified in its rules. The passing score on such~~
 13 ~~examination shall be established by the board in its rules.~~
 14 ~~On successfully passing the examination, an applicant shall~~
 15 ~~be issued a license to practice professional nursing.~~

16 {2} The board shall establish in its rules the
 17 requirements for rewriting the examination for those persons
 18 failing the examination on the first writing and subsequent
 19 writing."

20 Section 11. Section 37-8-407, MCA, is amended to read:

21 "37-8-407. Reciprocity Endorsement -- professional
 22 nursing. ~~{1}~~ The board--professional nursing administration
 23 may issue without examination a license to practice nursing
 24 as a registered professional nurse to an applicant who has
 25 been licensed or registered as a professional nurse under

1 the laws of another state or territory if in the opinion of
 2 the board the applicant meets the qualifications required of
 3 registered nurses in this state at the time the applicant
 4 graduated from a school of nursing. The applicant shall pay
 5 a fee of \$35 at the time the application is submitted, which
 6 shall be returned to the applicant if the application is
 7 withdrawn not later than 5 days prior to final submission of
 8 the application to the board, subject to deduction of \$5 to
 9 be retained by the department.

10 ~~{2} An applicant may, pending licensure as a~~
 11 ~~professional nurse under subsection {1} of this section,~~
 12 ~~practice professional nursing as an employee of a health~~
 13 ~~care agency for a period not longer than 3 months from the~~
 14 ~~date the department acknowledges receiving from the nurse a~~
 15 ~~completed statement on a form provided by the department,~~
 16 ~~of intention to practice. The statement shall consist of an~~
 17 ~~affidavit by the nurse and an affidavit by the employer~~
 18 ~~where the nurse intends to practice professional nursing.~~
 19 ~~The affidavit of the nurse and the affidavit of the employer~~
 20 ~~shall contain the information deemed by the board necessary~~
 21 ~~for the statement.~~

22 ~~{3} Subsection {2} does not permit the nurse to~~
 23 ~~practice for more than a 3-month period or in any event~~
 24 ~~after being notified by the board through the department~~
 25 ~~that the application for a license has been denied or in all~~

1 ceases---after---being---notified---by---the---board---through---the
2 department---to---cease---and---desist---this---practice---Notice---shall
3 be---given---by---registered---or---certified---mail---to---the---address---of
4 the---applicant---as---it---appears---in---the---statement---of---the
5 applicant."

6 Section 12. Section 37-8-409, MCA, is amended to read:

7 "37-8-409. Midwifery -- when professional nurse may
8 practice. (1) A person licensed under 37-8-406 or 37-8-407
9 who holds a certificate in nurse-midwifery from the American
10 college of nurse-midwives may practice midwifery upon
11 approval by the board--professional--nursing--administration
12 of an amendment to her license granting a certificate of
13 nurse-midwifery. The board shall grant a certificate of
14 nurse-midwifery to a person who submits written verification
15 of certification by the American college of nurse-midwives
16 and who meets such other qualification requirements as the
17 board may prescribe.

18 (2) The board--professional--nursing--administration may
19 give temporary approval to practice nurse-midwifery for up
20 to 4 months to a person who has taken the American college
21 of nurse-midwives national certification examination,
22 pending receipt of official notification of the results of
23 the examination."

24 Section 13. Section 37-8-415, MCA, is amended to read:

25 "37-8-415. Licensed practical nursing --

1 qualifications of applicants. An applicant for a license to
2 practice as a licensed practical nurse shall submit to the
3 department board written evidence, verified by oath, that
4 the applicant:

5 (1) has successfully completed at least an approved
6 4-year high school course of study or the equivalent as
7 determined by the office of the superintendent of public
8 instruction;

9 (2) ~~has---successfully---completed---the---prescribed~~
10 ~~curriculum---in---an---approved---school---of---practical---nursing---and~~
11 ~~holds---a---diploma---or---certificate---therefrom~~ is a graduate of an
12 approved practical nursing education program that is
13 authorized to prepare persons for licensure as practical
14 nurses; and

15 (3) meets other qualification requirements the board
16 acting---under---the---practical---nursing---administration
17 prescribes in its rules."

18 Section 14. Section 37-8-416, MCA, is amended to read:

19 "37-8-416. Licensed practical nursing -- examination.
20 An applicant for a license to practice as a practical nurse
21 is required to pass a written examination in subjects as the
22 board, acting under the--practical--nursing--administration,
23 determines. A written examination may be supplemented by an
24 oral or practical examination. The board may use any
25 nationally standardized examination for practical nurse

1 licensure identified by the board in its rules. The passing
 2 score shall be established by the board in its rules. On
 3 successfully passing the examination, the department board
 4 shall issue to the applicant a license to practice as a
 5 licensed practical nurse."

6 Section 15. Section 37-8-417, MCA, is amended to read:

7 "37-8-417. Reciprocity Endorsement -- licensed
 8 practical nursing. (1) The board--practical--nursing
 9 administration may issue a license to practice as a licensed
 10 practical nurse, without examination, to an applicant who
 11 has been licensed or registered as a licensed practical
 12 nurse or person entitled to perform like services under a
 13 different title under the laws of another state or territory
 14 if, in the opinion of the practical-nursing-administration
 15 board, the applicant meets the requirements for practical
 16 nurses in this state.

17 (2)--An-applicant-may, pending licensure as a practical
 18 nurse---under---subsection---(1)---of---this---section,---practice
 19 practical-nursing-as-an-employee-of-a-health-care-agency-for
 20 a-period-of-not-longer-than--3--months--from--the--date--the
 21 department-acknowledges-receiving-from-the-practical-nurse-a
 22 completed--statement,--on-a-form-provided-by-the-department,
 23 of-intention-to-practice. The statement shall consist of--an
 24 affidavit--by--the--practical--nurse-and-an-affidavit-by-the
 25 employer-where--the--practical--nurse--intends--to--practice

1 practical--nursing--The--affidavit--of--the--nurse--and-the
 2 affidavit-of-the--employer--shall--contain--the--information
 3 considered--by--the--board-necessary-for-the-statement. This
 4 subsection does not permit the nurse to--practice--for--more
 5 than--a--3-month-period-or-in-any-event-after-being-notified
 6 by-the-board-through-the-department-that-the-application-for
 7 a-license-has-been--denied-or--in--all--cases--after--being
 8 notified--by--the--board-through-the-department-to-cess-and
 9 desist-this-practice. Notice shall be given by registered-or
 10 certified-mail-to-the-address-of-the-applicant-as-it-appears
 11 in-the-statement-of-application."

12 Section 16. Section 37-8-431, MCA, is amended to read:

13 "37-8-431. Renewal of license. (1) The license of a
 14 person licensed under this chapter must be annually renewed.
 15 Before December 1 of each year, the department shall mail an
 16 application form for renewal of license to every person to
 17 whom a license was issued or renewed during the year. The
 18 applicant shall carefully complete and subscribe the
 19 application form and return it to the department with a
 20 renewal fee of \$10 before January 1.

21 (2) The board may increase or decrease the annual
 22 license fee so as to maintain in the earmarked revenue fund
 23 at all times an adequate amount to be used for the purpose
 24 of administering, policing, and enforcing the provisions of
 25 this chapter. On receipt of the application and fee, the

1 department shall verify the accuracy of the application
2 against its record and from other sources the board
3 considers reliable and issue to the applicant a certificate
4 of renewal for the current year beginning January 1 and
5 expiring December 31 following. The certificate of renewal
6 renders the holder a legal practitioner of nursing for the
7 period stated in the certificate of renewal.

8 (3) A licensee who allows his license to lapse by
9 failing to renew the license may be reinstated by the board
10 on satisfactory explanation for the failure to renew license
11 and on payment of the current renewal fee prescribed by the
12 board.

13 (4) A person practicing nursing during the time
14 following the date his license has expired is an illegal
15 practitioner and is subject to the penalties provided for
16 violations of this chapter.

17 (5) The board may establish a reasonable late fee for
18 licensees who fail to renew their license by January 1 as
19 required in subsection (1)."

20 Section 17. Section 37-8-441, MCA, is amended to read:

21 "37-8-441. Denial, revocation, or suspension of
22 license -- grounds. Only after compliance with 37-8-442, the
23 board,--acting--under--the--appropriate--administration, may
24 deny, revoke, or suspend a license to practice nursing or
25 discipline a licensee on proof that the person:

1 (1) is guilty of fraud or deceit in procuring or
2 attempting to procure a license to practice nursing;

3 ~~(2)--is-guilty-of-a-crime-or-gross-immorality~~

4 ~~(3)~~(2) is unfit or incompetent by reason of
5 negligence, habit, or other causes;

6 ~~(4)~~(3) is habitually intemperate or is addicted to the
7 use of habit-forming drugs;

8 ~~(5)~~(4) is mentally or physically incompetent;

9 ~~(6)~~(5) is guilty of unprofessional conduct;

10 ~~(7)~~(6) has willfully or repeatedly violated this
11 chapter."

12 Section 18. Section 37-8-442, MCA, is amended to read:

13 "37-8-442. Denial, revocation, or suspension of
14 license -- procedure. (1) On filing a sworn complaint in
15 writing with the board charging a person with violation of
16 37-8-441 as a ground for disciplinary action, the board
17 shall fix a time and place for a public hearing before the
18 board,--to-be-convened-in-membership-as-the-five-member-board
19 for--professional--nurses--or--as-the-eight-member-board-for
20 practical-nurses,--depending-on-the-professional-or-practical
21 status-of--the--licensee,--nurse--or--person--against--whom
22 complaint-is-made.

23 (2) If the person charged is found guilty of the
24 charges, the board may refuse to grant a license to the
25 applicant or may revoke or suspend a license issued to a

1 licensee.

2 (3) A revoked or suspended license may be reissued
3 after 1 year, in the discretion of the board."

4 NEW SECTION. Section 19. Temporary work permit. (1)
5 The board may issue a temporary work permit for a period not
6 to exceed 90 days to a registered professional nurse or
7 licensed practical nurse who is currently licensed in
8 another state, a territory of the United States, or the
9 District of Columbia and who is an applicant for licensure
10 by endorsement. Such permit is not renewable.

11 (2) The board may issue a temporary work permit to a
12 graduate of an approved nursing education program or
13 approved practical nursing education program pending the
14 results of the first licensing examination following
15 graduation. Such permit is not renewable.

16 (3) To protect the public, the board shall adopt such
17 rules as are necessary to limit the practice of persons
18 issued temporary work permits. Such rules shall include a
19 provision that such practice be supervised by a physician,
20 dentist, osteopath, podiatrist, or registered nurse until a
21 license is issued and shall include a definition of
22 supervision.

23 Section 20. Codification instruction. Section 19 is
24 intended to be codified as an integral part of Title 37,
25 chapter 8, and the provisions of Title 37, chapter 8, apply

1 to section 19.

2 Section 21. Effective date. This act is effective on
3 passage and approval.

-End-